



Duluth, Georgia

Unified Development Code

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CITY OF DULUTH

UNIFIED DEVELOPMENT CODE

Organization of the Code

Article 1. Adoption, Purpose and Applicability

Article 1 provides for the adoption of the Unified Development Code, sets out its purpose and intent, describes the lands and development to which the Code applies, shelters approved permits from changes in the regulations, and provides for the continuation of preexisting uses, structures, lots and signs that are not in conformity with the provisions of this Code.

Article 2. Use of Land and Structures

Article 2 defines the zoning districts in the City and identifies the specific uses to which land and structures may be put in the various zoning districts, including certain uses or structures for which special approval is required in order to be allowed. This Article also sets out the standards that control the size of lots, the placement and size of buildings and structures on a lot, and the intensity of development on a lot. In addition, this Article identifies specific uses within each zoning district to which restrictions may apply, which are presented in Article 3 of this Code.

Article 3. Restrictions on Particular Uses

Article 3 provides land use and development regulations for specific uses that are applicable to sites throughout the City of Duluth. Unless otherwise noted, these standards are intended to be applied within all zoning districts where the particular uses are allowed, whether by right or through special use approval.

Article 4. Parking and Loading Requirements

Article 4 sets out the requirements and restrictions on the provision of automobile parking spaces for each development to accommodate its residents, employees, customers and visitors. The provisions of this Article apply equally to each designated use without regard to the zoning district in which it is located.

Article 5. Subdivisions and Planned Developments

Article 5 presents the different ways that land can be subdivided and developed, ranging from conventional subdivisions, to Conservation Subdivisions where green space and natural features are preserved by reducing lot sizes, and Planned Unit Developments which allow a wider variety of housing types in a well-planned mixed-use environment while also preserving green space and natural features.

Article 6. Sign Regulations

Article 6 provides for the types of signs that may be placed on a property, and regulates such characteristics as their size, number, placement, and timing (for temporary events).

Article 7. Landscaping, Buffers and Tree Protection

Article 7 sets out the minimum requirements and standards for the protection of the natural environment through tree protection and preservation, the planting of trees and other landscape material, the provision of natural and/or planted buffers between dissimilar uses, and the promotion of water-efficient landscaping principles and techniques.

Article 8. Environmental Protection

Article 8 sets out the minimum requirements and standards for the protection of the natural environment within the City, including restrictions on the use of land near certain rivers and streams, within water supply watersheds, within groundwater recharge areas susceptible to pollution, and in wetlands in order to:

- a. Protect the drinking water quality of the rivers, streams, reservoirs and aquifers that supply water to the residents of the jurisdiction and the State;
- b. Protect the natural habitat of animal and plant life relative to water resources; and
- c. Limit the potentially damaging effects of flooding.

Article 9. Project Design and Construction Standards

Article 9 sets out the minimum requirements and standards for construction of subdivisions and other land development projects, including general principals of design and layout and requirements for such public facilities as streets and utilities.

Article 10. Erosion Control and Stormwater Management

Article 10 contains the requirements that relate to the impact of rainfall events on the natural and manmade environment, including the erosion and siltation effects of site grading and land disturbance activities and the control of stormwater flows.

Article 11. Procedures and Permits

Article 11 describes the process through which a rezoning or special use may be approved on a property, the approval process for construction of subdivisions and other land development projects, and the approval process for other permits required by this Development Code.

Article 12. Appeals

Article 12 describes the process for addressing unusual situations or unique problems that may arise from the strict interpretation or enforcement of this Development Code, including appeals from an administrative decision, for a special exception, and for unique hardships restricting reasonable use of a property.

Article 13. Administration and Enforcement

Article 13 sets out the structure, procedures and responsibilities of the various administrative officers for administering, amending and enforcing this Development Code, and set out penalties for violations.

Article 14. Interpretation and Definitions

Article 14 describes how figures, words and phrases used in this Development Code are to be interpreted, and provides a glossary of all definitions specifically used in the text of this Development Code.

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Article 1. Adoption, Purpose and Applicability

Article 1 provides for the adoption of the Unified Development Code, sets out its purpose and intent, describes the lands and development to which the Code applies, shelters approved permits from changes in the regulations, and provides for the continuation of pre-existing uses, structures, lots and signs that are not in conformity with the provisions of this Code.

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Article 1. Adoption, Purpose and Applicability

Section 101. Title and Authority.

101.01 Short Title.

This code shall be known as and may be cited as “The Unified Development Code of the City of Duluth, Georgia,” and may be referred to generally as “The Development Code” or “The UDC.”

101.02 Authority.

Pursuant to authority conferred by the Constitution of Georgia, and for the purposes of promoting the health, safety, morals, convenience, order, prosperity and the general welfare of the present and future inhabitants of the City of Duluth, Georgia, this Development Code is adopted as contained and detailed herein.

Section 102. Adoption.

Under the authority and for the purposes stated herein, the Council of the City of Duluth, Georgia, hereby ordains and enacts into law the Articles and Sections contained in this Unified Development Code of the City of Duluth, Georgia.

102.01 Components of the Development Code.

This Development Code and the official zoning map of the city on file and maintained in the Planning and Development Department shall together constitute the Unified Development Code of the City of Duluth, Georgia.

102.02 Conflict with Other Regulations.

- (a) Whenever the provisions of this Development Code impose greater restrictions upon the use of land or buildings or upon the height of buildings or require a greater lot width or depth or size of yard or a larger percentage of lot to be left unoccupied or impose other more restrictive standards than are required in or under other ordinances, rules, regulations, statutes, permits of any easements, covenants or other agreements between parties, the provisions of this Development Code shall govern, unless otherwise stated herein.
- (b) Whenever the provisions of any other statute or covenants require more restrictive standards than those of this Development Code, the provision of such statutes or covenants shall govern.

102.03 Repeal of Conflicting Ordinances.

All resolutions, regulations or ordinances and parts of resolutions, regulations or ordinances in conflict with this Development Code are hereby repealed to the extent of such conflict.

102.04 Severability.

If any article, section, subsection, sentence, clause, or phrase of this Development Code is for any reason declared invalid or unconstitutional by any Court of Competent Jurisdiction, such declaration shall not affect the validity of this Development Code as a whole nor of any part thereof that is not specifically declared to be invalid or unconstitutional, it being the intent of the Mayor and City Council of the City of Duluth in adopting this Development Code that no portion thereof or provision contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any article, section, subsection, sentence, clause, phrase, or provisions of this Development Code.

102.05 Effective Date.

This Development Code shall take effect and shall be in force from and after the date of its adoption by the Mayor and City Council of the City of Duluth, the public welfare demanding it.

Section 103. Purpose and Intent.**103.01 Purposes of the Development Code.**

The purpose of this Development Code is to promote the health, safety, morals, convenience, order, prosperity, and the general welfare of the community, and is intended:

- (a) To lessen congestion in the streets;
- (b) To secure safety from fire, panic and other dangers;
- (c) To provide adequate light and air;
- (d) To prevent the overcrowding of land and avoid both undue concentration of population and urban sprawl;
- (e) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (f) To protect property against blight and depreciation;
- (g) To encourage the most appropriate use of land, buildings, and other structures throughout the City of Duluth;
- (h) To provide a system for the subdividing of lands and the accurate recording of land titles;
- (i) To provide assurance that lots shown on recorded subdivision plats are usable by the purchasers for their intended and permitted functions;
- (j) To encourage economically sound and orderly land development in accordance with the policies and objectives of the City of Duluth Comprehensive Plan;
- (k) To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with the public improvement policies of the City;
- (l) To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments;
- (m) 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;
- (n) To assure equitable review and approval of all subdivisions and site plans by providing uniform procedures and standards for the developer.

103.02 Purposes of Comprehensive Plan.

The City of Duluth, Georgia Comprehensive Plan is intended for the following purposes, among others:

- (a) To guide and direct growth and development in the City of Duluth;
- (b) To protect, preserve, and enhance the City's cultural, environmental, economic and social resources;
- (c) To identify current land uses in order to assist the City in making budgetary, utility and other resource allocations;

- (d) To enable the City of Duluth to predict future land uses for planning purposes;
- (e) To assist the City in fulfilling its statutory and other legal obligations; and
- (f) To provide a public document that will serve as a means of general information on land use and development for the citizens of Duluth and other interested parties.

103.03 Intent in Interpretation.

In interpreting and applying this Development Code, the requirements contained herein are declared to be minimum requirements necessary to carry out the purposes of this Development Code.

103.04 Intent Relative to Private Property Agreements.

Except as herein provided, this Development Code shall not be deemed to interface with, abrogate, annul or otherwise affect in any manner whatsoever easements, covenants, or other agreements between parties; provided that, when the regulations of this Development Code are more restrictive or impose higher standards or requirements than such private easements, covenants, or other legal relationships, the regulations of this Development Code shall govern. In no case, however, shall the City of Duluth be required to enforce such private easements, covenants, or other private agreements or legal relationships, whether they are more restrictive or less restrictive than the standards or requirements of this Development Code.

Section 104. General Applicability.

104.01 Land to Which this Development Code Applies.

This Development Code applies to all lands and the buildings, structures, and uses thereon within the incorporated limits of the City of Duluth, Georgia.

104.02 Exemptions.

(a) Conditions of Approval.

Nothing herein shall be construed as repealing or modifying the conditions of approval associated with any zoning, special use, conditional use, or variance approved prior to the effective date of this Development Code.

(b) Subdivisions with Prior Approval.

A subdivision that received preliminary plat approval prior to the adoption of this Development Code shall be allowed to continue development according to said preliminary plat and its associated development plans under the Development Regulations in effect at the time the preliminary plat and its development plans were approved. This provision shall expire one year following the date of preliminary plat approval, unless construction has begun and continuous work is being performed on the project.

(c) Previously Issued Permits.

The provisions of this Development Code shall not affect the validity of any lawfully issued and effective site development plan approval, building permit, or development permit if:

- (1) The development activity or building construction authorized by such site development plan or permit approval has started prior to the effective date of this Development Code, or will be commenced after such effective date but within one year of issuance of the site development plan or permit approval; and

- (2) The development activity or building construction must comply with all time frames associated with said approval or permit, and must continue without interruption (except in the instance of a natural disaster) until the development or construction is complete. If the approved site development plan or permit expires and is not renewed by the permittee, any further development or construction on the site shall occur only in conformance with the requirements of this Development Code in effect on the date of the permit expiration.

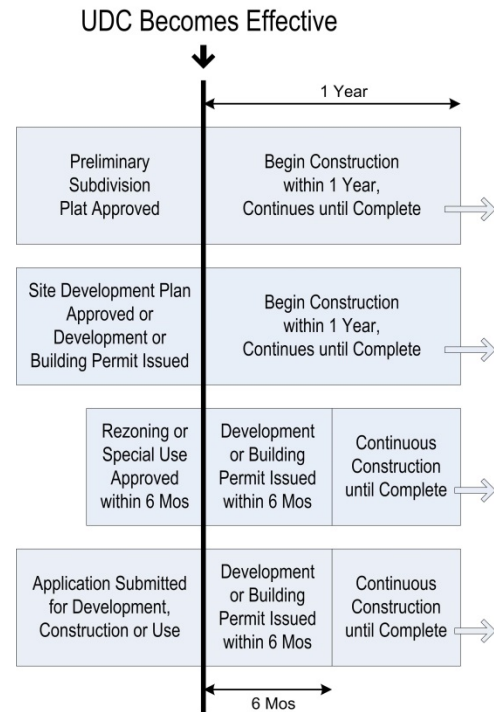
(d) Recently Approved Rezoning.

In order to provide a smooth transition to the new Unified Development Code, any property rezoned or granted special use approval within the six calendar months preceding adoption of the Unified Development Code, but for which such use is not allowed under the Unified Development Code, shall nonetheless be allowed to be used for such purpose as previously approved, provided that:

- (1) A development permit or building permit authorizing such use is issued within six calendar months after the effective date of the Unified Development Code; and
- (2) The development activity or building construction must comply with all time frames associated with said approval or permit, and must continue without interruption (except due to natural disaster) until the development or construction is complete. If the permit expires and is not renewed, any further development or construction on that site shall occur only in conformance with the requirements of the Unified Development Code in effect on the date of the permit expiration.

(e) Previously Submitted Applications.

- (1) Any valid and complete application accepted by the Planning and Development Department prior to the effective date of this Development Code for the development of, construction upon, or use of land shall be processed and approved or issued under the applicable City of Duluth regulations in place prior to the effective date of this Development Code, provided that:
 - a. The Development Permit is approved within six calendar months of the effective date of this Development Code; and
 - b. The use, development, or construction begins within six calendar months after approval of the application, all time frames associated with said permit are observed, and development activity or building construction continues without interruption (except because of natural disaster) until the development or construction is complete.



(f) **Agricultural Uses.**

Clearly agricultural uses, limited to the cultivation of the land, dairying or animal husbandry, that are in operation on the effective date of this Development Code but are nonconforming uses according to their zoning may continue as “grandfathered” uses and may be resumed after a lapse of no more than two years, provided that land proposed to be converted to a new agricultural use is zoned RA-200 to be exempt from the provisions herein.

(g) **Effect of Unified Development Code on Exempt Properties.**

- (1) To the extent that exemption under this Section 104.02 results in nonconformity with the provisions of this Development Code, such properties shall be governed by the requirements of Section 106, Nonconformities.
- (2) Any new application for a zoning map change, a variance, a concept plan, a preliminary subdivision plat, a site development plan, a development permit, a building permit, or any other action affecting an exempt property covered under the provisions of this Section shall be considered and acted upon under the procedural provisions of this Development Code, as applicable.
- (3) The owner of a property that is otherwise exempt under this Section may, at his or her option, develop the property in conformity with the provisions of this Development Code.

Section 105. Application of the Regulations.

105.01 Use, Occupancy, and Construction.

- (a) No building or structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulations of this Development Code.
- (b) Any land disturbance activity or any development activity must first comply with this Development Code.

105.02 Height and Density.

- (a) Density shall be calculated based on the density definition in Article 2.
- (b) No building or structure shall hereafter be erected, constructed, reconstructed, or altered to:
 - (1) Exceed the height limits.
 - (2) House a greater number of units per acre or occupy a smaller lot area than is herein required.
 - (3) Have narrower or smaller front, rear, or side yards than are herein required.
 - (4) Be in nonconformance with the minimum lot size requirements of the zoning district in which they are located, with the exception of lots served by on-site sewer, septic tank, which shall be subject to the approval and lot -size standards of the Gwinnett County Environmental Health Department.
- (c) See Table 2-B for maximum density per zoning district.

These maximum densities are per the adopted Comprehensive Plan (also referred to as the Duluth Community Agenda) and are added for clarity. The current density is set by the restrictions set forth in lot size, lot coverage percentage, lot width, lot frontage, and setbacks requirements.

105.03 Reduction in Lot Size.

No lot shall be reduced in size so that lot width or depth, size of yards, lot area per family, or any other requirement of this Development Code is not maintained. This limitation shall not apply when a portion of a lot is acquired for a public purpose.

105.04 Yards and Other Spaces.

No part of a yard or the off-street parking or loading spaces that are required in connection with any building or use for the purpose of complying with the regulations of this Development Code shall be for another building, except as specifically provided herein.

105.05 Only One Principal Building or Use on a Residential Lot.

Only one principal building or structure or use and its customary accessory building and uses shall be permitted on any lot of record within a residential zoning district. All buildings within a non-residential or multi-family zoning district shall be considered principal buildings.

105.06 Classification of Streets.

- (a) For the purpose of this Development Code, all of the streets, roads, and highways in the City of Duluth are classified as local streets (minor or major), collector streets (minor or major), residential or principal arterial streets, and freeways. These same streets and roads will also be known as interstate routes, U.S. or state routes, county roads, and local streets or roads.
- (b) The classification of each street in the City of Duluth is on file in the office of the City of Duluth Planning and Development Department. Private streets shall be classified as local streets for purposes of determining building setbacks.

105.07 Dedication of Public Lands and Facilities.

No land dedicated as a public street or other public purpose shall be opened or accepted as a public street or for any other public purpose, and no subdivision of land shall be made, nor subdivision plat, nor part thereof, shall be recorded before obtaining final approval from the City of Duluth Department of Planning and Development. Said approval shall be entered in writing on the Final Plat by the Planning and Development Director. Said Director is hereby authorized to accept such dedications of lands and public facilities on behalf of City of Duluth and to cause such dedications to be recorded by the Clerk to Superior Court of Gwinnett County, subject to ratification by the City Council.

105.08 Transfer of Land Ownership.

- (a) No person, firm, partnership, association, corporation, estate, trust, developer, subdivider or any other owner or agent shall transfer title or attempt to record the title to any land in the city limits of Duluth, and no building permit may be issued on said land, unless:
 - (1) Said land existed as a single parcel of ownership, recorded as such in its entirety and present boundaries with the Clerk to Superior Court of Gwinnett County prior to the adoption of these Regulations; or,
 - (2) Said land is shown in its entirety and present boundaries on a final plat as approved (under these or any previous applicable regulations) and duly recorded with the Clerk to Superior Court of Gwinnett County; or,
 - (3) Said land is shown in its entirety and present boundaries on a plat authorized by the Director and recorded with the Clerk to Superior Court of Gwinnett County pursuant to the regulations governing minor subdivisions contained herein; or,

- (4) Said land is an aggregation of properties for land assembly purposes, and no building permit will be requested prior to the filing of an application for an issuance of a development permit, pursuant to this Development Code.
- (b) No person, firm, partnership, association, corporation, estate, trust, developer, subdivider or any other owner, or agent shall transfer title to any property by reference to, exhibition of, or any other use of any map of plat illustrating the subdivision of land without a final plat of said land showing said property first having been duly approved under the procedures of this Development Code or any previously applicable regulations and recorded with the Clerk to Superior Court of Gwinnett County.

Section 106. Nonconformities.

106.01 Intent of Nonconformities Section.

This Section defines the provisions that protect uses, structures, lots, and signs that lawfully existed prior to the adoption of this Development Code or a subsequent amendment, but no longer conform to the regulations herein. The primary intent of the treatment of nonconformity is to allow continuation of these uses, structures, lots and signs until the end of their useful life, while encouraging conformance to the new regulations when it becomes reasonable to do so.

106.02 Nonconforming Development; In General.

- (a) Lawful nonconforming uses, structures, lots, and signs are declared by this Development Code to be incompatible with land uses, structures, lots, and signs that conform to the requirements of the zoning districts in which the nonconformity exists. However, such nonconforming development may continue under the circumstances presented in this Code Section for each type of nonconformity.
- (b) For the purpose of this Section 106, “value” shall be computed from the amount a building or structure, as applicable, is appraised for tax purposes by the City of Duluth.

106.03 Continuation of Illegal Nonconformity Prohibited.

Any use, structure, lot, or sign that did not conform to the applicable codes or ordinances of the City of Duluth at the time of its creation, construction, or placement, or as a result of subsequent enlargement or expansion, shall not be considered a lawful nonconforming use, structure, lot, or sign and is prohibited.

106.04 Nonconforming Uses.

- (a) Nonconforming Use; Defined.

A lawful nonconforming use is a use or activity that was lawfully established prior to the adoption or amendment of this Development Code, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right or no longer meets or conforms to the requirements of this Development Code.

- (b) Continuance of Nonconforming Uses.

The lawful nonconforming use of any building structure or tract of land existing at the time of the adoption of this Development Code or any subsequent amendment may be continued even though such use does not conform with the provisions of this Development Code except that the non-conforming use shall not be:

- (1) Extended in any way, either on the same or adjoining property.

- (2) Extended to occupy a greater area of a building or structure.
- (3) Re-established after discontinuance for three months regardless of the intent of the owner or occupier to resume the nonconforming use.
- (4) Changed to another nonconforming use.

106.05 Nonconforming Structures.

(a) Nonconforming Structure; Defined.

A lawful nonconforming structure is a structure or building whose size, dimensions, location on a property, or other features were lawful prior to the adoption or amendment of this Development Code, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more requirements of this Development Code.

(b) Continuance of Nonconforming Structures.

- (1) A nonconforming structure may not be enlarged or extended unless a variance for such has been granted by the Duluth Zoning Board of Appeals. A legal nonconforming structure may be maintained or repaired, under permit, in accordance with all pertinent building codes and ordinances.
- (2) Structures that are nonconforming for reasons of design standards, landscaping requirements, or buffer standards may be occupied by another tenant, regardless of use, without having to bring the structure/building into compliance with the current standards provided the "footprint" or the height of the structure/building is not increased.
- (3) Change of ownership, tenancy, or management of a nonconforming structure shall not affect its legal, nonconforming status.
- (4) Whenever a nonconforming structure is damaged by any means and the extent of the damage is 50% or less of the floor area of the structure or 50% or less of the replacement value of the structure, as determined by the Building Official, the structure may be restored, provided it is replaced within six months.
- (5) Whenever a nonconforming structure is damaged by any means and the extent of the damage is more than 50% of the floor area of the structure or 50% or more of the replacement value of the structure, as determined by the City Building Official, the structure shall not be restored unless in conformity with all applicable ordinances.

106.06 Nonconforming Lots.

(a) Nonconforming Lot; Defined.

A lawful nonconforming lot is a lot of record whose area, frontage, width, or other dimensions, or location were lawful prior to the adoption or amendment of this Development Code, and which, by reason of such adoption or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

(b) Treatment of Nonconforming Lots.

- (1) A lawful nonconforming lot of record located in a residential district may be used for a single-family dwelling without the need for a variance from the Duluth Zoning Board of Appeals provided that all yard requirements are met. When it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the Zoning

Board of Appeals is hereby authorized to grant a variance reducing the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling but, in no case shall each of the side yards be less than 5 feet in width.

- (2) When two or more adjoining lots of record with continuous frontage are in one ownership at any time after the adoption or amendment of this Development Code and such lots, individually, have an area or width that is less than is required by this Development Code, then such contiguous lots shall be considered as a single lot or several lots of the minimum width and area required in the zoning district in which they are located.
- (3) For a lawful nonconforming lot of record, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the Planning and Development Director is hereby authorized to grant a special exception reducing the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling but, in no case shall each of the side yards be less than 5 feet in width. See the Appeals Article of this Development Code for procedures.

106.07 Nonconforming Signs.

See the Nonconforming Signs Section of Article 6 of this Development Code.

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Article 2. Use of Land and Structures

Article 2 defines the zoning districts in the City and identifies the specific uses to which land and structures may be put in the various zoning districts, including certain uses or structures for which special approval is required in order to be allowed. In addition, this Article identifies specific uses within each zoning district to which restrictions may apply, that are presented in Article 3 of this Code, and sets out the standards that control the size of lots, the placement of buildings and structures on a lot, and the bulk and intensity of development on a lot in each district.

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Article 2. Use of Land and Structures

Section 201. Zoning Districts; Established.

For the purposes of this Development Code, the incorporated area of the City of Duluth, Georgia, is divided into zoning districts and overlay districts designated as follows:

Residential Zoning Districts:

R-TH	Residential Townhouse
RA-200	Residential-Agricultural District
R-100	Single-Family Residential District
R-75	Single-Family Residential District
RM	Residential Multi-Family District
MH	Manufactured Housing District
HRD	Historic Residential District

Commercial Zoning Districts:

C-1	Neighborhood Business District
C-2	General Business District
HC-R	Highway Commercial-Retail District
HC-A	Highway Commercial-Auto District
O-I	Office-Institutional District
O-N	Office-Neighborhood District
CBD	Central Business District

Industrial Zoning Districts:

M-1	Light Industrial District
M-2	Heavy Industrial District
RD	Research and Development District

Planned Development Zoning Districts:

PUD	Planned Unit Development District
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Overlay Districts:

DOD	Downtown Overlay District
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Section 202. Official Zoning Map.

The incorporated area of the City of Duluth, Georgia is hereby divided into zoning districts, as shown on the Official Zoning Map of the City of Duluth, Georgia which, together with all explanatory matter thereon, and accompanying pages, is hereby adopted by reference and declared to be a part of this Code.

202.01 Official Zoning Map Adopted.

- (a) The Official Zoning Map of the City of Duluth, Georgia is hereby adopted and identified as that map or series of maps, adopted by the City Council, that show the precise location and boundaries of the zoning districts and that is certified by the Mayor and City Clerk of Duluth, Georgia.
- (b) A certified copy of the Official Zoning Map shall be kept in the Department of Planning and Development, where it shall be available for public inspection.
- (c) The Official Zoning Map may be amended from time to time pursuant to the provisions of this Code.

202.02 Amendments to the Official Zoning Map.

The Official Zoning Map may be amended from time to time by the City Council, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation in conformity with the procedures set forth in this Code.

202.03 Interpretation of Zoning District Boundaries.

Where uncertainty exists with respect to the location and boundaries shown on the Official Zoning Map, the following rules shall apply:

- (a) Where a zoning district boundary line is shown as approximately following a corporate limits line, a militia district line, a land lot line, a lot line or the center line of a street, a county road, a state highway or a railroad right-of-way or such lines extended, then such lines shall be construed to be the zoning district boundary lines.
- (b) Where a zoning district boundary line is shown as being set back from a street, a county road, a state highway, an interstate highway or a railroad right-of-way and approximately parallel thereto, then such zoning district boundary line shall be construed as being at the scaled distance from the center line of the street, county road, state highway, interstate highway or railroad right-of-way and as being parallel thereto.
- (c) Where a zoning district boundary line divides a lot, the location of the line shall 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 shall apply to the balance of the lot except that such extension shall not include any part of a lot that lies more than 50 feet beyond the zoning district boundary line.
- (d) In the case of a through lot fronting on two approximately parallel streets that 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 shall apply to that portion of the through lot.

202.04 Conversion of Previous Zoning Districts.

Zoning districts as were established under the provisions of the previous Zoning Ordinance of the City of Duluth are hereby renamed to the following zoning district names and designations under this De-

velopment Code, as shown on Table 2-A. All regulations, requirements and provisions of this Development Code applicable to a zoning district established under this Chapter shall apply to the previously named zoning district as shown on Table 2-A.

Table 2-A: Conversion of Previous Zoning Districts

Previous Zoning District Designation		Zoning District Designation Under This Code	
RA-200	Residential-Agricultural District	RA-200	Residential-Agricultural District
R-100	Single-Family Residential District	R-100	Single-Family Residential District
R-75	Single-Family Residential District	R-75	Single-Family Residential District
RM	Residential Multi-Family District	RM	Residential Multi-Family District
MH	Manufactured Housing District	MH	Manufactured Housing District
CPD-R	Core Preservation District - Residential	HRD	Historic Residential District
C-1	Neighborhood Business District	C-1	Neighborhood Business District
C-2	General Business District	C-2	General Business District
HC	Highway Commercial District	HC-R	Highway Commercial-Retail District
		HC-A	Highway Commercial-Auto District
O-I	Office-Institutional District	O-I	Office-Institutional District
O-N	Office-Neighborhood District	O-N	Office-Neighborhood District
CBD	Central Business District	CBD	Central Business District
CPD-C	Core Preservation District - Commercial	CBD	Central Business District
M-1	Light Industry District	M-1	Light Industrial District
M-2	Heavy Industry District	M-2	Heavy Industrial District
RD	Research and Development District	RD	Research and Development District
PRD	Planned Residential Development District	PUD	Planned Unit Development District
POD	Planned Office Development District	PUD	Planned Unit Development District
PCD	Planned Commercial Development District	PUD	Planned Unit Development District
PID	Planned Industrial Development District	PUD	Planned Unit Development District
PUD	Planned Unit Development District	PUD	Planned Unit Development District
BHOD	Buford Highway Overlay District	n/a	
DOD	Downtown Overlay District	DOD	Downtown Overlay District
HSO	Historic Structure Overlay District	n/a	
CSO	Conservation Subdivision Overlay District	n/a	

Section 203. Definitions.

For the purposes of this Article, the following words and terms shall have the meanings respectively ascribed, in addition to the definitions contained in Article 14 of this Development Code. If the same word or phrase is defined in this Article, below, and in Article 14, the definition contained in this Article shall be taken as the correct definition and applied throughout this Development Code.

Accessory Structures and Uses. A detached structure and/or use on the same lot with, and of a size and nature customarily incidental and subordinate to the principal structure and/or use of land.

Alteration of a Building. Any change, addition or modification in construction of the structural members of a building, such as walls, partitions, columns, beams or girders, or any change that results in an addition to enclosed floor area of a building or the movement of the building from one location to another.

Apartment. See “Multi-Family Dwelling.”

Basement. The lower level of a building having a floor-to-ceiling height of at least 6½ feet and a portion of its floor subgrade (below ground level) on at least one side.

Block. A piece or parcel of land entirely surrounded by public streets (other than alleys), railroads or other rights-of-way, or boundaries of the development within which the block is located.

Buildable Area of Lot. The area of lot within the setback lines as defined by this Code.

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

Building Height. The height of a building is the vertical distance measured from the mean elevation of the finished lot grade at the front of the building to the highest point on the deck line of a mansard roof, the highest edge on a shed roof, or the ridge of a hip, gambrel or gable roof. For flat roofs, the height shall be measured to the top of the roof or parapet along the exterior building wall, whichever is higher.

Building Story. See “Story, Building.”

Building Line. A line formed by the outer face of the exterior wall of a building or portion thereof and the surface of the ground.

Building, Main. A building in which is conducted the principal use of the lot on which it is situated. Also referred to as a “Principal Building.”

Condominium. A multiple unit dwelling in which each dwelling unit is owned or financed by the occupant, but in which halls, entrance ways and underlying lands are owned jointly.

Customary Home Occupation. An occupation, service, profession or enterprise conducted entirely within a dwelling and which is carried on by a resident thereof and which is clearly incidental and secondary to the use of the dwelling for residential dwelling purposes.

Duplex. See “Two-Family Dwelling (Duplex).”

Dwelling. Any building or portion thereof which is designed for or used for residential purposes.

Dwelling Unit. A room or suite of two or more rooms that is designed for the occupancy, cooking, and sleeping of one or more than one person living as a single household.

Family. One or more persons occupying a dwelling unit and living as a single household, as distinguished from persons occupying a boarding house or motel, as defined herein.

Floor Area, Single-Family Dwelling. The floor area of a single-family dwelling is the gross horizontal area of several floors of the one-family residential structure, excluding; carports, unfinished basements, attics, and open porches.

Floor Area, Gross. The sum of all floors of a structure as measured to the outside surfaces of exterior walls or the center of connected or common walls, including; common public areas (such as lobbies), restrooms and hallways, spaces devoted exclusively to elevator shafts but, excluding; internal parking and loading areas, attics, porches, balconies, and other areas outside of the exterior walls of the building. Gross floor area is used to determine the building sizes for all but single-family dwellings and to determine required parking when floor area is the designated measure for a use.

Floor, Ground. The floor of a building that is nearest the surrounding surface of the ground.

Floor Area, Heated. The gross floor area of all spaces within a dwelling or dwelling unit that are heated by mechanical means, measured to the inside surfaces of exterior walls, excluding: porches, balconies, attics, unfinished basements, garages, patios, and decks.

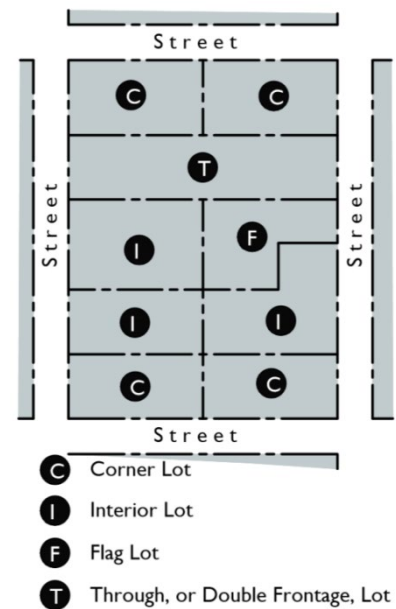
Floor Area, Net. The sum of all floors of a structure as measured to the outside surfaces of exterior walls, excluding halls, stairways, elevator shafts, attached and detached garages, porches, balconies, and attics with less than 7 feet of headroom, basements, patios, and decks.

Frontage, Lot. The distance over which the boundary line of the lot and the street line are coincident.

Heated Floor Area. See “Floor Area, Heated.”

Household. A family or a group of up to three unrelated individuals living together in a single dwelling unit, sharing common use of and access to all living and eating areas, bathrooms, and food preparation areas, who mutually combine their efforts and share responsibilities for domestic chores.

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



- (1) **Corner Lot.** A lot that occupies the interior angle of two street lines which make an angle of less than 135 degrees with each other.
- (2) **Double Frontage Lot.** A lot, other than a corner lot, abutting upon two or more streets.
- (3) **Interior Lot.** A lot having frontage on only one street.
- (4) **Flag Lot.** A lot having a street frontage and initial lot width notably less wide than the body of the lot (usually where the principal building is intended to be located), such that the lot appears to be a “flag” on a “pole” extending to the street frontage.

Lot Area. The computed ground area bounded by the front, side and rear lot lines.

Lot Coverage. The computed ground area that is covered by buildings, structures, accessory structures, driveways, parking areas, and any other impervious surface.

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

Lot Line. The boundary dividing a given lot from the street or adjacent lots; the boundary defining the limit of ownership of a property.

- (1) **Front Lot Line.** Any boundary line of a lot that abuts a street. A lot adjacent to more than one street will have more than one front lot line.
- (2) **Rear Lot Line.** Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.
- (3) **Side Lot Line.** Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.

Lot of Record. A lot or parcel whose existence, location, and dimensions have been recorded in the Office of the Clerk to Superior Court of Gwinnett County.

Lot Width. The horizontal distance between the side lot lines measured along the front principal building line.

Manufactured Home. A structure, transportable in one or more sections that, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or when erected on site, is 320 or more square feet and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes; plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended. This definition excludes travel trailers, recreational vehicles, and mobile homes as defined below.

Manufactured Home Park. A tract of land of individual ownership that has been developed with all necessary facilities and services in accordance with a site development plan for the placement of manufactured homes for non-transient use.

Mobile home. A structure, transportable in one or more sections, which, in the travelling mode, is 8 body feet or more in width, or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976.

Modular Home. A factory fabricated, transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure to be used for residential purposes. A modular home shall be designed and constructed in compliance with Georgia State Minimum Standard One and Two Family Dwelling Code and shall be certified by the manufacturer to meet the approval of the State Building Administrative Board (SBAB) to meet the same requirements as an on site-built home within the City of Duluth. The term shall not include manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq.



Illustrative Example of a Modular Home

Multi-Family Dwelling. A residential building designed exclusively for occupancy by three or more families in separate dwelling units living independently of each other.

- (1) **Apartment.** A multi-family dwelling in which a dwelling unit may be located above another.
- (2) **Triplex.** A detached residential structure containing three dwelling units, designed for occupancy by not more than four families living independently of each other.
- (3) **Quadruplex.** A detached residential structure containing four dwelling units, designed for occupancy by not more than four families living independently of each other.

Parcel. See “Lot.”

Principal Building. The building in which is conducted the principal use of the parcel on which it is located. Parcels with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Principal Building Setback Line. A line delineating the minimum allowable distance between a property line (or the right-of-way line) of an abutting street and a principal building on a lot.

- (1) **Front Building Setback.** The minimum allowable distance between the right-of-way line of any abutting street and any part of a principal building on a lot. The front setback distance is applied along the full length of the right-of-way line and is parallel to it.
- (2) **Rear Building Setback.** The minimum allowable distance between a rear lot line and any part of a principal building on a lot. The rear building setback extends along and is parallel to the full length of the rear lot line.
- (3) **Side Building Setback.** The minimum allowable distance between a side lot line and any part of a principal building on a lot. The side building setback extends along and is parallel to the side lot line between the front building setback and a rear building setback (if any).

Principal Use. The specific, primary purpose for which land or a building is used, such as residential living, professional services, retail sales, or manufacturing.

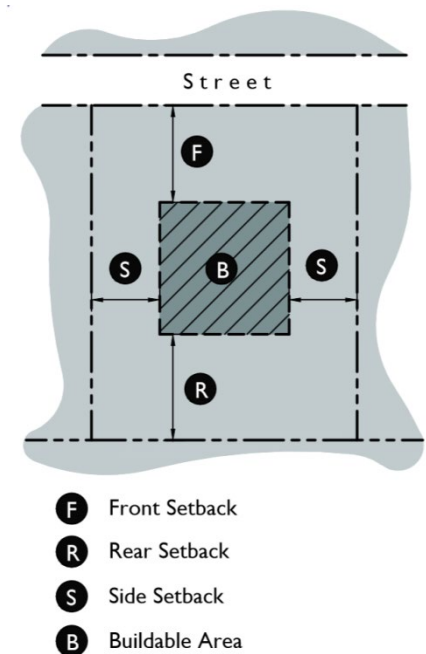
Quadruplex. A detached residential structure containing four dwelling units, designed for occupancy by not more than four families living independently of each other.

Roof line. The top of a flat roof or the ridge of a gable, hip or gambrel roof.

Right-of-Way. A portion of land over which a local or state government has designated a right of use.

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

- (1) **Front Building Setback.** The minimum allowable distance between a street line or lot line and the front building line of a principal building or structure, projected to the side lines of the lot and including driveways and parking areas, except where otherwise prohibited by this Code.



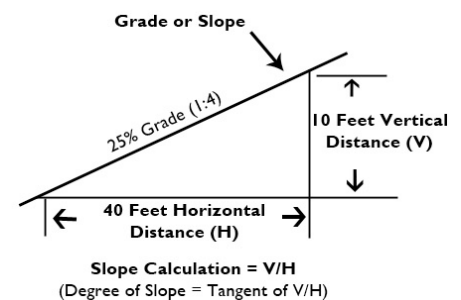
- (2) **Rear Building Setback.** The minimum allowable distance between a rear lot line and the building line. The rear building setback extends along and is parallel to the full length of the rear lot line.
- (3) **Side Building Setback.** The minimum allowable distance between a side lot line and the building line. The side building setback extends along and is parallel to the side lot line between the front building setback and a rear building setback (if any).

Single-Family Attached Dwelling (Townhome or Townhouse). A residential building containing three to eight one-dwelling units adjoined by vertical walls.

Single-Family Detached Dwelling. A detached building containing one dwelling unit. See also “Manufactured home,” “Modular home,” and “Site-Built Single-Family Detached Dwelling.”

Site-Built Single-Family Detached Dwelling. A single-family detached dwelling constructed on the building site from basic materials delivered to the site, in contrast to assembly of pre-constructed materials and that is constructed in accordance with all requirements of the construction codes as adopted by the City of Duluth.

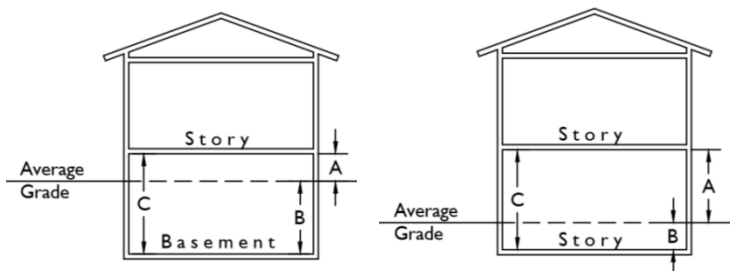
Slope. The degree of deviation of a surface from horizontal, measured in a numerical ratio, percent or degrees. Expressed as a ratio or percentage, the first number is the vertical distance (rise) and the second is the horizontal distance (run), as 2:1 or 200 percent (200%). Expressed in degrees, it is the angle of the slope from the horizontal plane with a 90° slope being vertical (maximum) and 45° being a 1:1 slope.



Special Use. The term applied to those uses specifically identified and approved by the City Council under the requirements set forth herein.

Street Line. The dividing line between a lot, tract or parcel of land and a contiguous street.

Story, Building. That portion of a building included between the surface of any floor and the surface of the floor above it. If there is no floor above it, a room, suite, or story with more than one-half of its height below grade shall not be considered a story for the purposes of height regulations. One-story measures 12 feet in height. The first floor of a two or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy but has at least one-half (½) of its height on one side below grade (see also “Basement”). Those stories above the first floor shall be numbered consecutively.



Structure. Anything constructed or erected on the ground or attached to something on the ground, including, but not limited to: buildings, signs, gasoline pumps, parking lots, patios, pools, decks, manufactured homes, gas or liquid storage tanks, and canopies.

Townhome (Townhouse). See “Single-Family Attached Dwelling (Townhome or Townhouse).”

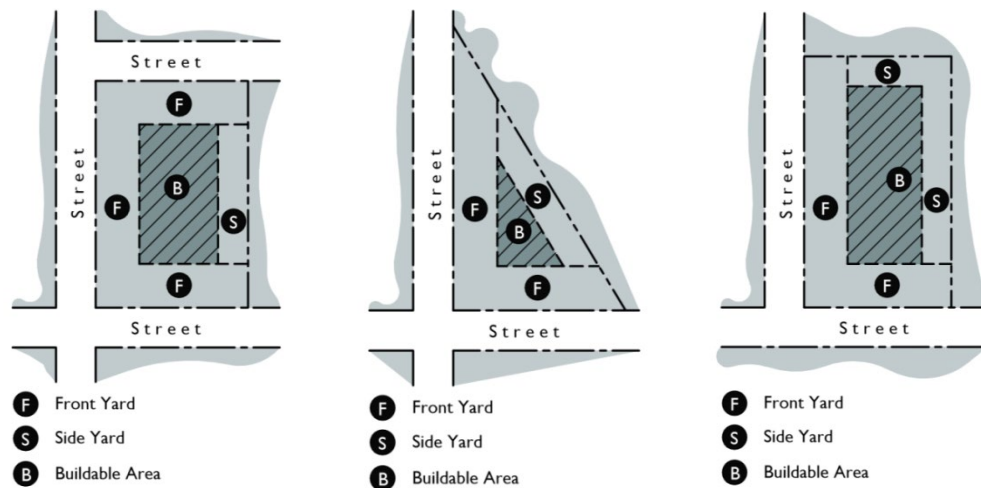
Triplex. A detached residential structure containing three dwelling units, designed for occupancy by not more than three families living independently of each other.

Two-Family Dwelling (Duplex). A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof.

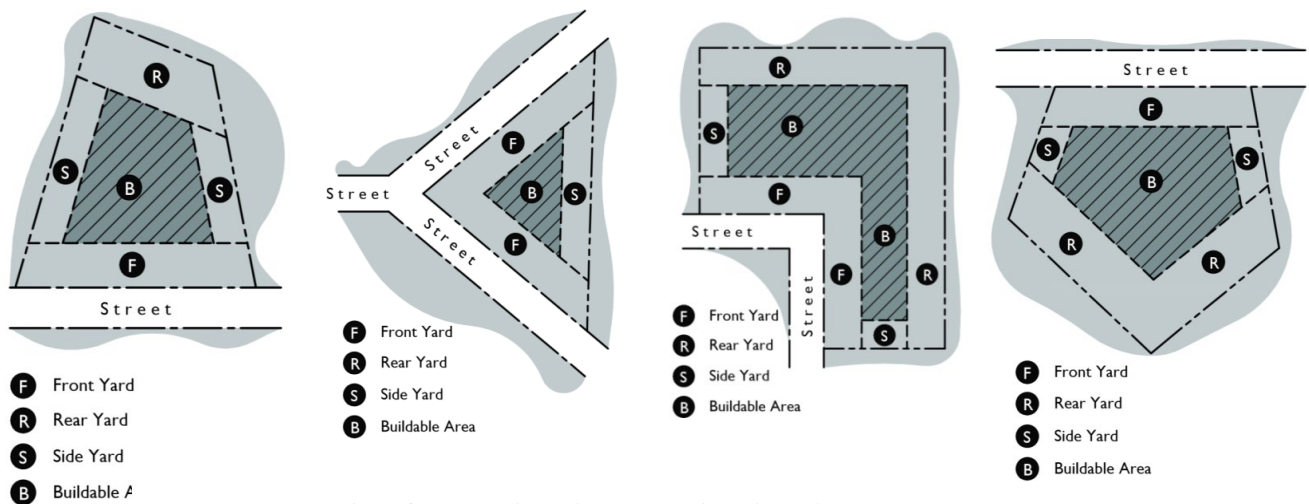
Use. a) Any purpose for which, a building, structure or a tract of land may be designed, arranged, intended, maintained or occupied or b) any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Yard (with principal building). An area that lies between the principal building on a lot and the nearest lot line.

- (1) **Front Yard.** A yard extending across the full width of the lot, measured between the front lot line and the front line of the main building. Corner lots shall be considered to have two front yards or one exterior side and one front yard.
- (2) **Rear Yard.** A yard extending across the full width of the lot, measured between the rear line of the lot and the rear line of the main building.
- (3) **Exterior Side Yard.** A yard between the building and attached structures, and the adjacent street right-of-way line along the lot extending from front yard to rear yard.
- (4) **Interior Side Yard.** A yard between the building and attached structures, and adjacent side-line of the lot adjoining another lot, and extending from the front yard to the rear yard.



Examples of Required Yards in Corner Lots

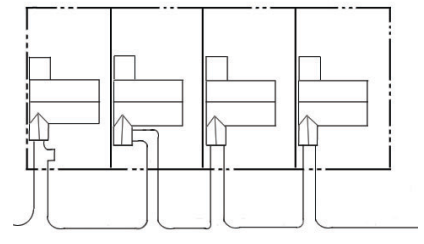


Yard (no principal building). An area beginning from the nearest lot line or street right-of-way line, as described below, to the interior of a lot.

- (1) **Front Yard.** A yard extending across the full width of the lot, measured at a point beginning from the adjacent street right-of-way line. Corner lots shall be considered to have two front yards or one side and one front yard.
- (2) **Rear Yard.** A yard extending across the full width of the lot, measured at a point beginning from the rear line of the lot. The rear line shall be opposite the street right-of-way line used to designate the front yard.
- (3) **Side Yard.** A yard that is not a front yard or rear yard.

Zero Lot Line. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line, such as patio homes or fee simple townhouse condominiums.

Example of Zero Lot Line:
Patio Homes



Section 204. Development Standards.

204.01 Area Regulations for Lots and Principal Buildings.

Provisions relating to the minimum area and width, the maximum height of a building, and the minimum setbacks for front, side and rear yards as they relate to a principal building are included in Section 206. Setback provisions for accessory buildings and structures are contained in Section 204.05.

204.02 Street Frontage Requirement.

No building or structure shall hereafter be erected on a lot that does not abut for at least 40 feet upon an open street which shall be a public street, a publicly approved street, a publicly maintained street, or a private street constructed in accordance with this Code.

204.03 Minimum Lot Width.

The minimum lot width shall be achieved between the side lot lines measured along the front principal building line.

204.04 Determination of Side Yard Setback Distances.

In the determination of side yard setback distances, lots whose side yard shares a common property line with those of adjacent properties shall observe the setback distance required under "interior side" of the bulk and area regulations of each zoning classification in Section 205. Lots whose side yard does not share common property lines with those of adjacent lots (i.e., street side) shall observe the side yard setback distance required under "exterior side" of the bulk and area regulations of each zoning classification in Section 205.

- (a) The Planning and Development Director has the discretion to reduce the front building setback accordingly to achieve this goal. See the Appeals Article of this Development Code for procedures.
- (b) Changes in topography or other unusual circumstances may be reviewed by the Planning and Development Director, who at his or her discretion, may modify requirements of this Section 204.04, provided the intent of the Development Code is maintained.
- (c) Corner lots shall be considered to have one exterior side yard and one interior side yard.
- (d) Setbacks for an exterior side yard shall be the same as the front yard with the exception of specific alternative requirements provided in
- (e) Table 2-B: Area Regulations by Zoning District.

204.05 Minimum Setbacks for Accessory Buildings and Structures.

- (a) Accessory uses or structures shall be permitted only in rear yards with the exception of detached garages in a residentially zoned area (R-100, R-75, RA-200, or any residential portion of a PUD), provided they are no closer to any street than the principal structure, except as otherwise provided in this Code.
- (b) No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory.
- (c) Accessory structure requirements apply only to residential zoning districts. In a residentially zoned area, there shall be a minimum setback requirement from side and rear property line of 5 feet and a minimum separation requirement between accessory structures of 20 feet. Multiple accessory structures are permitted on a single platted lot, provided the combined square footage of the accessory structures complies with the size limitations set forth in Article 3.
- (d) Any structure built on commercial or industrial zoned property shall be considered a principal use.
- (e) The setback requirements of this Code shall not prohibit any necessary retaining wall nor prohibit any wall or fence except that in a residential district. See also Section 3.03.02.

204.06 Exceptions.

- (a) Exceptions to Front Yard Requirements.

Any lot where the average depth of the front yards of existing buildings on adjoining lots (which are located wholly or in part within 100 feet on each side of such lot, and are within the same block and zoning district and fronting on the same side of the street) is either greater or less than the minimum required front yard depth shall meet the following requirements:

- (1) If the average depth of the front yards is greater than the required minimum front yard depth, the depth of the front yard of such lot shall be the average of the front yards of the above mentioned buildings, but need not be greater than 150% of the required front yard depths.

- (2) If the average depth of the front yards is less than the required minimum front yard depth, the depth of the front yard of such lot may be less than the required front yard depth, but shall not be less than the average of the front yards of the aforementioned buildings.

(b) Exceptions to Height Limitations.

The height limitations of this Development Code shall not apply to the following structures nor architectural features: church spires, belfries, flag poles, monuments, cupolas, domes, ornamental towers, observation towers not intended for human occupancy, water towers, transmission towers, radio or television towers or aerials, chimneys, smokestacks, conveyors, derricks, parapet walls extending not more than 4 feet above the roof line of the building, necessary mechanical roof appurtenances or barns and silos when located on a farm.

Section 205. Zoning and Overlay Districts.

- (a) All lands in the incorporated area of the City of Duluth, Georgia are included in one or another of the zoning districts established by this Development Code.

- (b) Overlay districts, that provide additional requirements or restrictions on the portions of these zoning districts over which they are established, are found under Section 204.01 of this Article.

- (c) Except for individual nonconformities addressed in Article 1 of this Development Code:

- (1) No property shall be used except in accordance with its zoning designation on the Official Zoning Map, application conditions of zoning approval for the property, and all applicable provisions of this Development Code.

- (2) The regulations set by this Development Code within each zoning district shall be minimum regulations and shall apply uniformly, and to each class or kind or structure or land, except when modifications are provided in this Code.

- (d) Area Regulations.

Unless otherwise specified in this Development Code, principal uses and lots shall conform to the requirements in

Table 2-B.

- (e) Allowed Uses.

Unless otherwise specified in this Development Code, see Section 207 for allowed principal uses, accessory uses, temporary uses, and restrictions that apply to particular uses.

205.02 RA-200 Residential-Agricultural District.

The RA-200 District is comprised of land having a predominantly rural character. It is the intent of this District to discourage the subdivision of land for urban development requiring such urban services as a public water supply, sanitary sewers, fire protection and the like.

205.03 R-100 Single-Family Residential District.

The R-100 District is intended primarily for single-family residences and related uses at low suburban residential densities on land served by a public sewer system. The development of lots in this District is also permitted with septic tanks provided that the placement of each such septic tank shall be approved by the Gwinnett County Health Department.

205.04 R-75 Single-Family Residential District.

The R-75 District is intended primarily for single-family residences and related uses at low suburban residential densities on land served by a public sewer system. The development of lots in this district is permitted with septic tanks, provided lot sizes correspond to the area in square feet in the R-100 District and the placement of each such septic tank is approved by the Gwinnett County Health Department.

205.05 R-TH Residential Townhouse District.

The R-TH zoning district is intended for townhouse dwellings with a maximum density of 8 units per acre in areas where public water supply and sewerage facilities are available or can be obtained and where there is convenient access to collector streets, major thoroughfares or state or interstate highways. This zoning district is intended exclusively for townhouse dwelling units, customary accessory uses and structures.

205.06 RM Residential Multi-Family District.

The RM District is intended primarily for two-family (duplex) and multi-family dwellings at low-to-medium suburban residential densities on land which is served by a public sewer system and where there is convenient access to collector streets or major thoroughfares.

205.07 MH Manufactured Housing District.

The MH District is intended exclusively for the placement of manufactured homes and their accessory uses in accordance with the Manufactured Home Regulations of Article 3 of this Development Code. All manufactured homes, manufactured home parks and manufactured home subdivisions shall meet the requirements set forth in the Manufactured Home Regulations.

205.08 HRD Historic Residential District.

The HRD zoning district is intended to preserve the low-density residential uses and established development pattern along the West Lawrenceville Street corridor in the downtown area.

205.09 C-1 Neighborhood Business District.

The C-1 District is intended to define residential neighborhoods with convenient shopping and service facilities not to exceed 2,500 square feet. Allowed uses include those businesses and services that are desired by nearby residents on a day-to-day basis and that are compatible with the neighborhood commercial character of the district.

205.10 C-2 General Business District.

The C-2 District is intended primarily for a wide variety of businesses and services that benefit from close proximity to each other, that require a location accessible to large numbers of people, and that serve a substantial portion of the community.

205.11 HC-Retail Highway Commercial-Retail District.

The HC-Retail District is intended to serve a variety of business activities that are generally oriented to highway corridors while assuring that these roadways can achieve their designated purpose of providing rapid and safe passage and accommodating alternative transportation modes.

205.12 HC-Auto Highway Commercial-Auto District.

The HC-Auto District is intended to serve business activities, including auto-related businesses, which are generally oriented to highway corridors. The district is further intended to assure that these roadways can achieve their designated purpose of providing rapid and safe passage and accommodating alternative transportation modes.

205.13 O-I Office-Institutional District.

The O-I District is established to provide a location for offices, institutions, and limited related retail business and service activities in areas that have ready access to major thoroughfares or O-N Office-Neighborhood District.

205.14 O-N Office-Neighborhood District.

The O-N District is established to provide for a transition of intensity from commercial and office to a less intensive residential use without changing the character of established residential neighborhoods. This transitional zoning district may also serve as a buffer between major traffic arteries and residential uses. Ingress and egress must be from a non-residential street classified as a collector or arterial.

205.15 CBD Central Business District.**(a) Purpose and Intent of the CBD Zoning District.**

The CBD zoning district is intended to serve as the center of the community's retail trade, civic functions, and financial and professional activity. Its primary purpose is to group uses together in a compact area to facilitate pedestrian movement and encourage development and redevelopment that enhances, stabilizes and preserves the traditional character of the area.

(b) Area Regulations.

Principal uses and lots in the CBD District shall conform to the requirements in Table 2-B. This conformity shall be depicted on proposed concept plans and site plans (see the Procedures and Permits Article for submittal requirements).

(c) Uses Allowed in the CBD Zoning District.

See Section 207 for allowed principal uses and restrictions that apply to particular uses. In addition, the Downtown Duluth Master Plan shall guide the location of uses.

(d) Architectural and Design Guidelines, Non-Residential and Multi-Family (Apartment) Uses.

The following architectural and design guidelines shall apply to all new construction in the CBD District with the exception of residential development, which shall be subject to the requirements of paragraph (f), "Residential Development" of this subsection. Proposed designs shall be reviewed by the Planning and Development Director. All development shall meet the intent of the CBD District and requirements.

(1) Building Facades.

- a. Exterior building materials shall be real brick, stucco or stone (primary materials) or wood or cementitious fiberboard siding that exhibits a horizontal or clapboard profile (secondary materials). Brick or stucco shall be of a color to match existing facade or, on new structures, be of a color that is compatible with surrounding buildings. Siding using secondary materials shall be painted or stained to match existing colors or be of a color that is compatible with surrounding buildings. Stand-alone buildings larger than 50,000 square feet and at least three (3) stories in height may use architecturally treated materials as defined by this code on portions of each façade higher than the lowest visible floor. In no case shall architecturally treated materials be used on any portion of a building lower than ten feet (10') from the finished lot grade per facade. Buildings using architecturally treated materials shall incorporate a horizontal architectural band of at least eighteen vertical inches (18") or an off-set in the horizontal plane at least six (6)

feet in depth to act as a transition between the architecturally treated material and the lower primary building material. In all cases, the color of the architecturally treated materials should be lighter than the base primary material.

- b. Primary materials shall comprise a minimum of 60% of exterior wall surfaces, with the exception that stucco may comprise no greater than 25% of any exterior wall surface.
- c. Secondary materials may be used for up to 40% of the exterior wall surfaces.
- d. Any development consisting of a building longer than 100 feet must have off-sets in the horizontal plane that are at least 18 inches in depth and at least 5 feet in length for every 100 feet of frontage.
- e. At least 30% of all facades shall be non-reflective glass. U-Factor of glass shall be 0.65 or less and the Solar Heat Gain Coefficient less than or equal to 0.40.
- f. Doors, windows, and other architectural features shall embellish a minimum of 50% of the front facade and be used to break large wall planes into smaller components.
- g. The primary facade facing onto a street or public area shall have defining elements that differentiate the first floor from the upper facade. Defining element examples include entries, windows, awnings, grill work, piers, cornices and fascia.
- h. Cornice and fascia on the upper façade shall not exceed 6 feet in their vertical dimensions or 20% of the vertical length of the façade, whichever is less. For purposes of this subsection, the vertical length of the façade is measured from the finished grade to the top of the cornice or eave.

(2) Roofs

- a. Allowed styles and forms include flat, gable, shed, or hip roofs.
- b. Secondary roof forms created by dormers, porches, entries, bays, and projections shall not comprise more than 50% of the roof area.
- c. New dormers shall be aligned with the facade windows or located between the openings below.
- d. The pitch of the dormer shall conform to that of the main roof.
- e. Shed dormers are permitted for roof slopes that are not visible from the street or public areas.
- f. If such dormers are to be used in a new construction project, they shall be included in secondary elevations.
- g. Allowed roofing materials include: tile, slate, stone, wood shake, or textured composite shingles with a shake, slate, or tile appearance. Exposed metal flashing shall be copper or factory finished sheet metal; if used as a standing seam, the color must blend with adjacent materials or be a color to simulate weathered copper or bronze.
- h. Flat roofs shall have parapets or cornice features.



- i. Flat roof materials shall be any material that meets local codes. Rooftop equipment shall be screened by building elements (such as a parapet wall) rather than through add-on screening (such as wood or metal slats).
 - j. Any parapet or cornice details used on a street façade should be continuous on all walls of the building.
- (3) Architectural and Landscape Lighting. Architectural or landscape lighting may be used to highlight the unique features of a building and/or surrounding landscape treatment. High-lighting fixtures shall be located and designed in such a manner that the actual lamp and reflector are shielded or louvered so that it is not seen from a public area. See also the Outdoor Lighting Standards section of Article 3.
- (4) Signage. See the Sign Regulations, Article 6 of this Code.
- (5) Parking. Off-street parking will not be required for any use occupying a building that existed prior to the adoption of this Development Code. Off-street parking for any use associated with a building that is constructed subsequent to this Code adoption shall be provided in accordance with Article 4, with the exception that restaurant and retail uses are exempt from the requirements of Article 4.
- (6) Streetscape. Refer to the Downtown Duluth Master Plan.
- (7) Dumpster Enclosures.
 - a. Dumpsters shall be screened on all sides with minimum 6 foot high walls with the fourth side serving as an access gate.
 - b. The walls shall be finished with the same exterior materials as the principal structure.
 - c. Pedestrian and vehicle access shall be screened by a solid operable gate of the same height as the wall.
 - d. Dumpsters cannot be located within the front or side yard.
 - e. Dumpsters shall be placed on a concrete pad with sufficient strength to prevent them from sinking into asphalt or soil; the pad shall also be able to support service vehicles.
 - f. A common refuse container may be shared between uses on separate lots that do not have sufficient area to store refuse with the submittal of a shared access agreement signed by all parties involved.
- (8) Mechanical and Communications Equipment.

The following equipment shall be screened from the public right-of-way:

 - a. Mechanical equipment shall utilize screening that is integrated with the building in terms of the building's architectural form, materials, color, shape, and size.
 - b. Roof mounted mechanical and communication equipment shall be screened by building elements (such as a parapet wall) rather than through add-on screening (such as wood or metal slats).
 - c. No supply or exhaust vents shall be located along the public right-of-way or within 20 feet of any pedestrian entrance.
- (9) Utilities.

- a. Utilities (electric, telephone, cable, gas, sewer, and water) shall be placed underground in new construction or installation of new utility infrastructure.
 - b. Utilities shall provide for interconnections such as the installation of sleeves for future extension of piping, shared, and oversized utility connections between buildings and shared entry courts or loading areas.
- (e) Architectural and Design Guidelines, Residential Uses.

The following architectural and design guidelines shall apply to all new single-family and townhouse construction in the CBD District. All development shall meet the intent of the CBD District and requirements. Final building plans, including elevations and materials, must be submitted and approved by the Planning and Development Director prior to the issuance of any building permits. Where the provisions of this Subsection e) conflict or overlap with other sections in the UDC, this subsection shall prevail and be controlling.

- (1) Single-Family Dwellings. The following standards shall apply to single-family dwellings:
- a. Minimum heated floor area: 2,800 square feet.
 - b. Exterior Construction Materials.
 - 1. Brick, stone, stucco and/or cementitious siding (which may be board, shingle or lap siding) are required. Variations in material may be approved by the Planning and Development Director.
 - 2. Split-faced concrete block, vinyl, and metal siding shall be prohibited.
 - 3. There shall be a minimum of eight different exterior elevations in a single-family development that exceeds two acres.
 - 4. No two adjacent dwelling units shall have identical elevations.
 - c. Garage Requirement.
 - i. Each dwelling unit shall provide a two-car garage.
 - ii. See also subsection d below.
 - d. Front Entry Garages.
 - iii. There shall be a 22-foot minimum driveway distance measured from the back edge of sidewalk to the garage face.
 - iv. The garage face shall be recessed a minimum of 5 feet back from the front building façade so as not to be the predominate feature of the front façade.
 - v. No more than 30% of homes in a single-family development shall be designed with front-entry garages.
- (2) Townhouses. The following standards shall apply to townhouses:
- a. Townhouses shall have an average of 2,400 square feet of heated floor area.
 - b. Townhouses shall be designed to be rear entry.
 - c. Each dwelling unit shall provide a two-car garage.
 - d. Exterior Construction Materials.

- vi. Brick, stone, and/or cementitious siding (which may be board, shingle or lap siding) are required. Variations in material may be approved by the Planning and Development Director.
 - vii. Split-faced concrete block, stucco, or granite block may only be used in an accent capacity for any building elevation.
 - viii. There shall be a minimum of three different exterior elevations in a townhouse development that exceed two acres.
- (3) Apartments. See Section 205.14(d) and Section 305.01 Standards for Multi-Family Dwellings, Apartments.
- (4) Residential Driveways.
 - b. Front loaded driveways shall be scored or finished with decorative treatment.
 - c. With the exception of tapered aprons, driveway widths shall not be expanded beyond the width of the garage face.
- (5) Walls and Fences.
 - d. Retaining Walls.
 - 1. Retaining walls shall be constructed of interlocking masonry block, brick or other decorative material as approved by the Planning and Development Director.
 - 2. Timber walls are prohibited.
 - 3. Walls shall meet all City design standards and must be included in site development plans.
 - 4. All walls shall require a separate review and permit.
 - e. Fencing.
 - 1. Fencing shall be decorative in design. See also Section 304.02(b) Design Standards for Decorative Fences for additional requirements.
 - 2. Fencing within a front yard setback shall not exceed 3 feet in height.
 - 3. A fencing plan for any residential development shall be submitted for review and approval by the Planning and Development Director prior to the issuance of development permits.
- (6) Landscaping and Buffers.
 - a. Sod shall be installed within all front, side and rear yards.
 - b. Required front yards shall have a combination of sod, shrubs and ground cover.
 - c. A landscape plan prepared in accordance with this Section and Article 7 shall be submitted for review and approval by the Planning and Development Director prior to the issuance of any development permits.
 - i. The landscape plan shall indicate the installation of trees along all streets.
 - ii. Tree spacing, specimen, and caliper shall be as required in Article 7 of this UDC.
 - d. Buffers shall be provided in accordance with the requirements of Article 7, Division I Buffer Regulations.

- (7) Common Areas. All proposed common areas and parks shall be privately owned and maintained by one or more community associations in accordance with Article 5, Section 508 Owner's Association of this UDC.
- (8) Parking. Off-street parking shall be provided in accordance with Article 4 of this UDC.
- (9) Roadways.
 - a. All streets, alleys, and roadways shall be constructed to standards of Article 9 of this UDC unless approved by the Planning and Development Director due to unusual topographic conditions or property configuration.
 - b. Public roadways and private roadways, if applicable, shall be noted on the final plat.
- (10) Utilities.
 - f. Utilities shall be placed underground and shall meet all Gwinnett County utility metering requirements.
 - g. Utilities shall be located in the rear of lots, when feasible.
 - h. Placement of utilities shall be designed to maximize the quality and quantity of landscaping visible from the street and in no case should utility placement be designed to limited opportunities for improved streetscapes.
 - i. Street lighting shall be consistent with existing downtown Duluth standards.
- (f) Residential Development
 - (1) Requirements for All Residential Developments in the CBD Zoning District.
 - a. Protective covenants. Residential development shall be subject to protective covenants which establish one or more mandatory membership community associations with the power to levy monetary assessments against all property owners and which have an obligation to maintain and operate all common areas for the benefit of the owners. The covenants shall be subject to the review and approval of the Planning and Development Department for compliance with this requirement.
 - b. Parking. Each single-family detached and townhouse dwelling unit is required to have a two-car garage.
 - c. Front-loaded driveways. If permitted, front-loaded driveways shall be scored or finished with decorative treatment.
 - d. Common areas and parks. All common areas and parks identified on any site plan for a residential development shall be privately owned and maintained by one or more community associations.
 - e. Walls. All retaining walls, as needed, shall be constructed of interlocking concrete block, brick, or other decorative material as approved by the Department of Planning and Development. Timber walls are prohibited.

All walls shall meet all City design standards and must be included in the site development plans. All walls require separate review and permit.
 - f. Utilities. Utilities shall be installed underground throughout the development. When feasible, utilities shall be located to the rear of lots. Placement of utilities shall be designed to maximize the quality and quantity of landscaping visible from a street and in

- no case should utility placement be designed to limit opportunities for improved streetscapes.
- g. Landscaping. A landscaping plan for the residential development shall be submitted for review and approval by the Planning and Development Department prior to the issuance of any development permit. The plan shall indicate the installation of trees along all streets. Tree spacing, specimen and caliper of the trees shall be as required in this Duluth Unified Development Code of Article 7.
 - h. Fencing. An overall fencing plan for the residential development shall be submitted for review and approval by the Department of Planning and Development prior to the issuance of any development permit. Any proposed fencing shall be decorative in design (see Sec. 304.02(b) of this Development Code for standards). Fencing within any front yard shall not exceed three (3) feet in height.
 - i. Roadways. All streets, whether public or private, shall be constructed to the street and alley standards of this Development Code (Sec. 905). The residential development, and any final plat thereof if required, shall clearly distinguish between public and private roadways.
 - j. Street lighting and signage. Street lighting and signage for the residential development shall be installed consistent with Duluth downtown standards as approved by the Department of Planning and Development.
 - k. Sidewalks and Trails. Sidewalks and any multi-purpose trails shall be constructed consistent with the locations and widths as shown on a final site plan approved by the Department of Planning and Development.
 - l. Driveway Widths. With the exception of tapered aprons, no driveway shall exceed or expand beyond the width of the garage face.
- (2) Requirements for Townhouses in the CBD Zoning District.
- a. Minimum lot size. For fee-simple townhouses, each lot shall have a minimum area of 1,800 square feet. This requirement may be waived by the Department of Planning and Development for zero lot line townhomes, provided that the developer includes a provision in the Covenants, Conditions and Restrictions for the project that clearly describe the maintenance and access of all common areas, streets, alleys and driveways.
 - b. Minimum lot width and street frontage. Each lot shall have a minimum width of twenty-two (22) feet. Notwithstanding the requirements of Section 204.02 of this Development Code, fee-simple townhouse lots shall have a minimum street frontage of twenty-two (22) feet.
 - c. Maximum building coverage. Building coverage shall not exceed 80% of any lot. This requirement may be waived by the Department of Planning and Development for zero lot line townhomes.
 - d. Principal building setbacks. Townhome units shall have a minimum five (5) foot principal building setback from a front lot line; ten (10) feet from a side lot line from an end or corner unit and twelve (12) feet from a rear lot line.
 - e. Heated floor area per dwelling unit. The minimum heated floor area for a townhouse unit shall be 2,200 square feet.

- f. Minimum building separation. Townhouse buildings shall be separated by a minimum of twenty (20) feet. Architectural features may be allowed to extend into the building separation requirement.
- g. Rear entry. All townhouses shall be designed to be rear entry: that is, garages shall not be located on the front elevation of accessed from the front of the lot, but rather, shall be designed with the required garage located to the rear of the lot and accessed via a street or alley. Garages shall have raised panel garage doors or decorative door equivalent.
- h. Façade differentiation. No adjacent units shall be alike.
- i. Required construction materials. Construction materials shall consist of the following: brick, stone, stucco and/or cementitious siding (which may be board, shingle or lap siding). Variations in material may be approved by the Planning and Development Director. Split-faced concrete block, stucco or granite block may be used in an accent capacity for any elevation.

Additional requirements. Townhouses in the CBD Zoning district are also subject to the requirements of Sec. 304.03 of this Development Code.

(g) Alternate Architectural and Design Guidelines.

- (1) In the event the intent of Section 205.14(d) and Section 205.14(e) can be achieved with minor deviations that do not substantially affect the purpose and intent of this Section, the Planning and Development Director has the authority to modify the specific provisions on a case-by-case basis. If substantial modifications or changes are desired for a particular property or project, the property owner may present proposed modifications to the Planning Commission for review.
- (2) Any application for alternate architectural design standards shall be accompanied with proposed elevations, building material descriptions and renderings necessary for the Planning Commission to make a determination whether the alternate proposal meets the intent of these standards. The Planning Commission, as part of the approval process, may include conditions, modifications or requirements deemed necessary to maintain the high level of development quality intended by this Code Section.

205.16 M-1 Light Industrial District.

The M-1 District is established to provide for light industrial uses such as assembling, wholesaling, warehousing and commercial services in areas that are located on or have ready access to a major thoroughfare, but whose proximity to residential or commercial districts makes it desirable to limit industrial operations and processes to those that are not objectionable by reason of the emission of noise, vibration, smoke, dust, gas, fumes, odors, or radiation and that do not create fire or explosion hazards or other objectionable conditions.

205.17 M-2 Heavy Industrial District.

The M-2 District is established to provide for manufacturing, assembling, storage and distribution activities that are generally high intensity, but whose operations and processes are not public nuisances and are not dangerous to health, safety, or the general welfare. The M-2 District shall be located on or have ready access to a major thoroughfare or state highway.

205.18 RD Research and Development District.

The purpose of the RD District is to provide an environment for research, education, office and light industrial uses, all of a non-nuisance type. The district shall be comprised of lands that are located on or have ready access to a major thoroughfare.

205.19 PUD Planned Unit Development District.

(a) Purpose and Intent of the PUD Zoning District.

The intent of the PUD District is to provide accommodate relatively large scale, planned developments that allow a mix of uses, master planned single use developments, and higher residential densities than allowed in other zoning districts and which incorporate innovative concepts of efficiency in land use, public services delivery, energy conservation, and environmental preservation.

(b) Area Regulations in the PUD District.

Area regulations are established by a Master Concept Plan that is approved by City Council; see Article 5.

(c) Uses Allowed in the PUD Zoning District.

Uses are established by a Master Concept Plan that is approved by City Council; see Article 5.

(d) Special Provisions Applicable to the PUD Zoning District.

See Article 5.

205.20 DOD Downtown Overlay District.

(a) Purpose and Intent of the DOD Overlay District.

The purpose of the DOD Overlay District is to encourage new development and redevelopment adjacent to the Duluth Central Business District that follows the compact development pattern, architectural styles and mix of uses found in the CBD. The DOD is intended to allow the downtown area to extend across Buford Highway, consistent with the intent of the Buford Highway Corridor Redevelopment Plan by supplementing the base zoning regulations within the overlay district with tailored building and design standards.

(b) Architectural and Design Standards.

All new construction, redevelopment and alterations shall comply with Section 205.14(d), with the exception that off-street parking requirements shall comply with Section 205.19(c).

(c) Parking.

Off-street parking requirements shall use the parking ratios that are recommended in the Downtown Duluth Master Plan, with final approval by the Planning and Development Director.

205.21 R-TH Residential Townhouse Zoning District

(a) Purpose and intent of the R-TH Zoning District

The R-TH zoning district is intended for townhouse dwellings with a maximum density of 8 units per acre in areas where public water supply and sewerage facilities are available or can be obtained and where there is convenient access to collector streets, major thoroughfares or state or interstate highways. This zoning district is intended exclusively for townhouse dwelling units, customary accessory uses and structures.

Section 206. Area Regulations in Each Zoning District.**206.01 Chart of Area Regulations.**

- (a) This Section lists, by the following matrix chart (Table 2-B) area regulations in each of the zoning districts. Regulations include, but are not limited to: the minimum area and width, the maximum building height, and the minimum setbacks for front, side and rear yards in each of the zoning districts.
- (b) Within the following table a dash “---” indicates no development standard applies for the specified category.

Table 2-B: Area Regulations by Zoning District

Zoning District	Lot size (minimum, square feet) ⁽⁸⁾	Density (maximum, dwelling units per gross acre)	Lot Coverage (maximum, percent)	Lot Frontage (minimum, feet)	Lot Width (minimum, feet)	Front Setback (minimum, feet)	Side Setback (minimum, feet)	Rear Setback (minimum, feet)	Height (feet)
RA-200	40,000	3	---	40	200	75, local streets 85, collector street or major thoroughfare	15, interior side 35, exterior side	40	50
R-100	18,000 with sewage 25,000 with septic tank	3	---	40	100	50	10, interior side 25, exterior side	40	50
R-75	12,000	3	---	40	75	50	10, interior side 20, exterior side	40	50
RM	18,000	15	60%	40	100	50	20 ⁽¹⁾	40 ⁽¹⁾	50
MH	5,000	6	---	40	---	---	---	---	---
HRD	25,000	3	---	40	---	50	10, interior side 25, exterior side	40	50
C-1	---	---	---	40	---	10	10 ⁽²⁾	15 ⁽²⁾	50
C-2	---	---	---	40	---	10	10 ⁽²⁾	15 ⁽²⁾	50
HC-Auto	---	---	---	40	---	10	10 ⁽²⁾	15 ⁽²⁾	50
HC-Retail	---	---	---	40	---	10	10 ⁽²⁾	15 ⁽²⁾	50
O-I	---	---	---	40	---	10, from right-of-way	10 ⁽³⁾	15 ⁽³⁾	50
O-N	---	---	35%	40	---	10, from right away	20 ⁽⁴⁾	20 ⁽⁴⁾	34
M-1	43,560	---	---	40	100	50, from right-of-way	20 ⁽⁵⁾	15 ⁽⁶⁾	50
M-2	43,560	---	---	40	100	50, from right-of-way	20 ⁽⁵⁾	15 ⁽⁶⁾	50
PUD	Established by Master Concept Plan Approved by City Council (see Article 5)								

Table 2-B: Area Regulations by Zoning District

Zoning District	Lot size (minimum, square feet) ⁽⁸⁾	Density (maximum, dwelling units per gross acre)	Lot Coverage (maximum, percent)	Lot Frontage (minimum, feet)	Lot Width (minimum, feet)	Front Setback (minimum, feet)	Side Setback (minimum, feet)	Rear Setback (minimum, feet)	Height (feet)
CBD (Residential uses)	--- ⁽⁹⁾	18	--- ⁽⁹⁾	--- ⁽⁹⁾	--- ⁽⁹⁾	Single-family: Detached - 12 Attached - 12	Single-family: De- tached - 5 ⁽⁷⁾ Attached- 5 ⁽⁷⁾	Single-family: Detached - 15 Attached - 15	4 stories
						Townhouse: 5 ⁽⁹⁾	Townhouse: 10 End/corner unit: --- ⁽⁹⁾	Townhouse: 12 ⁽⁹⁾	
						Apartment: 10	Apartment: 2 stories - 15 3 stories or more - 25	Apartment: 2 stories - 20 3 stories or more - 40	
CBD (Commer- cial uses)	---	---	---	---	---	---	---	---	15,000 sq. ft. or less: 25' (or 2 stories)
									Greater than 15,000 sq. ft.: 4 stories
RD	43,560	---	60%	40	50	15	10	15	35
R-TH	1,800	8	80%	100	22	Rear Entry - 10 Front Entry - 22	10, interior side 20, exterior side	40	35

⁽¹⁾ Exception: When a multi-family structure abuts a single-family or residential-agricultural district, in which case, 50 feet - one story 90 - two story.

⁽²⁾ Exception: When a commercial structure abuts a single-family or residential agricultural district, in which case, 70 feet – one story structure, 120 feet – two or more story structure.

⁽³⁾ Exception: When an office or institutional structure abuts a single-family or residential agricultural district, in which case, 25 feet – one story structure, 75 feet – two or more story structure

⁽⁴⁾ Exception: When an office or institutional structure abuts a single-family or residential agricultural district, in which case, 25 feet – one story structure, 40 feet – two or more story structure

⁽⁵⁾ Exception: When an institutional structure abuts a single-family or residential agricultural district, in which case, 90 feet – one story structure, 120 feet – two or more story structure

⁽⁶⁾ Exception: When an institutional structure abuts a single-family or residential agricultural district, in which case, 90 feet – one story structure, 120 feet – two or more story structure. If abutting a railroad track, the minimum rear setback shall be zero.

⁽⁷⁾ Zero between attached units and 10 feet side setback for corner lots.

⁽⁸⁾ Exception: Minimum lot sizes on properties utilizing septic systems will be determined by the Gwinnett County Health Department.

⁽⁹⁾ Exception: For residential development in the CBD zoning district, see Subsection 205.14, “CBD, Central Business District,” Paragraph (e), “Architectural and Design Guidelines, Residential Uses” for dimensional requirements.

Section 207. Uses Allowed in Each Zoning District.

This Section identifies the uses that are allowed by right or by Special Use approval in each of the zoning districts, and uses to which certain restrictions apply.

- (a) In specific areas covered by an overlay district, the overlay district imposes restrictions on uses not noted on the following use tables. The specifics of each overlay district under this Article must be consulted as applicable to a particular property or area.
- (b) In Planned Unit Developments (PUDs), uses that are allowed are established through approval of the planned development. See the Subdivisions and Planned Developments Article of this Development Code for details.

207.02 Chart of Uses.

This Section lists by the following matrix chart (Table 2-C: Principal Uses Allowed by Zoning District) the uses allowed by right and by Special Use approval in each zoning district. A listed allowed use is one that is allowed in the zone without any qualifications, except wherever such qualifications may be indicated in this Development Code. A listed special use is one that may be granted only when certain conditions are met. In the following chart an “A” means that the use is automatically allowed in the zoning district listed by the abbreviation at the top of the column. An “S” means that the use is allowed only by special use approval. A blank space indicates that the use is not allowed under any circumstances.

207.03 Allowed Principal, Accessory and Temporary Uses.

- (a) A Principal Use is the specific, primary purpose for which land or a building is used.
- (b) An Accessory Use is a use that is permitted on a property in conjunction with a principal use. An accessory use is incidental to the principal use and would not exist independent of the principal use.
- (c) A Temporary Use is a use having a specific duration or the end of which is related to a specific action, usually lasting for only a few days or months at a time.
- (d) Principal uses that are allowed by right or allowed only by Special Use approval in each zoning district are shown on the following Table 2-C. Accessory uses and temporary uses that are allowed in conjunction with a principal use are shown on Table 2-D.

207.04 Special Uses.

Principal and accessory uses that are Special Uses may be granted subject to Special Use approval procedures as set forth in the Procedures and Permits Article of this Code.

207.05 Restrictions on Particular Uses.

Restrictions that apply to certain principal uses and to certain zoning districts are referenced on Table 2-C and on Table 2-D, and are contained in Article 3. The restrictions also apply to Special Uses unless specifically waived or modified as a stipulation of Special Use approval. For those uses that have specific restrictions associated with them, a reference is given on the two tables to the pertinent Section in Article 3. The provisions of Division I of Article 3 that apply to development in general, however, are not indicated in either of the two tables.

207.06 Prohibited Uses.

- (a) Any principal use not shown on the following on Table 2-C as allowed in a zoning district, whether by right or with approval as a Special Use, is specifically prohibited.

- (b) Any accessory use not shown on the following Table 2-B as allowed in a zoning district, whether by right or with approval as a Special Use, is specifically prohibited.

207.07 Interpretation of Uses.

Some degree of interpretation will occasionally be required. It is not possible to list each and every variation or name of a given use.

- (a) In addition to other generally accepted references and resources, the *North American Industrial Classification System* (NAICS), published by the U.S. Department of Commerce (2012 edition), may be referred to in order to interpret the definition of uses listed on Table 2-C and Table 2-D and to identify similar uses that may be allowed along with each listed use. The NAICS classification number is shown on the tables for each applicable use for reference and interpretation only; the NAICS is not adopted as part of this Code.
- (b) The NAICS assigns classification numbers to businesses and industries based on the primary business activity in which the company is engaged. While business activity usually corresponds to land use type, and therefore can be easily assigned to appropriate zoning districts, there are exceptions. Some businesses may be primarily engaged in a certain industry—such as telecommunications, for instance, like AT&T—but individual locations host notably different activities. For a company like AT&T, for instance, different facilities may include retail stores for telephones, offices for administrative functions, satellite and exchange switching stations, and repair and installation staging lots where heavy equipment vehicles, telephone poles, wire spools and materials are stored. As a result, interpretation is occasionally needed for an individual use, regardless of the business activity in which the parent company is engaged.
- (1) If no NAICS classification number is shown on the table, there is no corresponding category to the land use listed. The use may be residential in nature (there are no NAICS categories for residences) or may be a land use activity not generally recognized as a business activity or industry type.
 - (2) In all cases of uncertainty, the determination of whether or not a particular use is allowed in a particular zoning district shall reflect the purpose of the zoning district as stated in this Article, both the common and dictionary definitions of the use, and the array of listed uses that are allowed in the district as to their character and intensity.

Table 2-C and Table 2-D are organized under the following land use categories:

Table 2-C organizes the various **principal uses** under the following headings:

- Agriculture, Forestry, and Fishing
- Residential Uses
- Administrative and Professional Offices
- Commercial Services
- Arts, Entertainment and Recreation
- Retail Trade
- Manufacturing, Wholesaling and Warehousing
- Transportation, Communications and Utilities
- Public and Institutional Uses

Table 2-D presents the various **accessory uses** and **temporary uses** allowed in each zoning district.

Table 2-C: Principal Uses Allowed by Zoning District

A Use is allowed by right in the zoning district indicated.

S Use is allowed in the district if approved as a Special Use.

A/S Use is allowed by right unless approval as a Special Use is required in Article 3.

NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
Agriculture, Forestry, and Fishing																				
111	Agriculture, Forestry and Animal production		A																Sec. 310 Sec. 329 Sec. 323	b.1 c.1
1114	Greenhouse, Nursery and Floriculture Production		A								A	A	A							c.2.
Residential Uses																				
	Single-Family Detached: Site-Built or Modular Home		A	A	A	A		A	A						A				Sec. 304	a.1.
	Single-Family Detached: Manufactured Home		S	S	S	S	A												Sec. 331	a.1.
	Single-Family Attached: Townhomes or Condominiums	A							A										Sec. 304	a.3.
	Two-Family Dwelling: Duplex		A	A	A	A														a.2.
	Three-Family Dwelling: Triplex					A														a.4.
	Four-Family Dwelling: Quadruplex					A														a.4.
	Multi-Family: Apartments					A			A										Sec. 305	a.4.
	Manufactured Home Park						A												Sec. 330	a.1.
7213	Rooming and Boarding Houses					A						S	S							a.7
	Upper Floor Residential Lofts in Mixed-Use Building								A											---
623	Nursing and Residential Care Facilities:																			a.6.
6231	Nursing Care Facilities										S			A						a.6.
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities		S	S							S			S						d.1.
623311	Continuing Care Retirement Community with on-site nursing care facilities										S			S		S			Sec. 318	a.6
623312	Assisted-Living Facilities and Other Homes for the Elderly without on-site nursing care facilities													A						a.5.

Table 2-C: Principal Uses Allowed by Zoning District

A Use is allowed by right in the zoning district indicated.

S Use is allowed in the district if approved as a Special Use.

A/S Use is allowed by right unless approval as a Special Use is required in Article 3.

NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
6239	Personal Care Homes, Family (2 to 6 under care)		S	S	S	S	S			A					S				Sec. 336	a.6
6239	Personal Care Homes, Group (up to 15 under care)									A				A	S	S	S		Sec. 336	a.6.
6239	Personal Care Homes, Congregate (more than 15 under care)													A		S	S		Sec. 336	a.6.
Administrative, Financial and Professional Offices																				
55	Corporate Management Offices								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
51	Publishing and Information Technology								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
52	Financial, Credit and Insurance								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
53	Real Estate Office								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
54	Professional, Scientific and Technical Services								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
55	Management of Companies								A/S	A	A	A	A			A	A	A	Sec. 307	b.1.
52239	Mortgage Servicing and Other Activities Related to Credit Intermediation (includes check cashing, money orders, payday lending services)									A	A	A	A			A	A	A		b.2.
54194	Veterinary Clinics, including Animal Hospitals		S							S	A	A	A	A					Sec. 342	b.3.
	Medical Offices:																			
621	Medical Offices								A/S	A	A	A	A	A	A				Sec. 307	b.3.
6215	Medical and Diagnostic Laboratories									A	A	A	A		A	A	A			b.3.
	Call Centers:																			
4541	Electronic Shopping and Mail-Order Houses									A	A	A	A			A	A			b.1.
4543	Direct Selling Establishments, except Fuel Dealers (see under <i>Manufacturing, Wholesaling and Warehousing</i>)								A/S	A	A	A	A			A	A		Sec. 307	b.1.
Commercial Services																				
	Finance, Insurance and Real Estate Services:																			b.1.
5221	Banks, Credit Unions and Savings Institutions, no drive-in window								A/S	A	A	A	A	A					Sec. 317	b.2.
5221	Banks, Credit Unions and Savings Institutions, with drive-in window									A	A	S	A	A						b.2.

Table 2-C: Principal Uses Allowed by Zoning District

A Use is allowed by right in the zoning district indicated.

S Use is allowed in the district if approved as a Special Use.

A/S Use is allowed by right unless approval as a Special Use is required in Article 3.

NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
	Day Care Services:																			
6244	Day Care Center (more than 18 persons in care)						S				A			A		S	S		Sec. 319	b.5.
6244	Group Day Care Home (18 or fewer persons in care)						S												Sec. 319	b.5.
	Transient Lodging:																			
7211	Hotels, not Extended Stay								A		A	A	A	S		S	S		Sec. 327	a.8.
7211	Hotels, Extended Stay										S	A	A	S		S	S		Sec. 327	a.8.
721191	Bed-and-Breakfast Inns								S											a.7.
721214	Fishing Camps		A																	--
8111	Automotive Repair and Maintenance , except for Automotive Car Washes and Auto Emissions Testing											S	A			A	A		Sec. 313	b.7.
811192	Automotive Car Washes									S	S	S	A						Sec. 312	b.7.
811198	Auto Emissions Testing										S		A			A	A			b.7.
	Other Repair and Maintenance Services:																			
8112	Electronic and Precision Equipment Repair and Maintenance									A	A	A	A							b.18.
8113	Commercial and Industrial Machinery and Equipment Repair and Maintenance (except Automotive and Electronic Repairs, Tractor Repairs and Welding Shops)										S	S	S			A	A			b.22.
81131	Tractor and Other Farm Equipment Repairs and Maintenance (Includes Welding Shop)												S			A	A			b.22.
811411	Home and Garden Equipment Repair and Maintenance										A	A	A							b.22.
811412	Home Appliance Repair and Maintenance										A	A	A							b.23.
81142	Reupholstery and Furniture Repair and Maintenance										A	A	A			A	A			b.23.
81143	Shoes and Leather Goods Repair and Maintenance									A	A	A	A							b.23.

Table 2-C: Principal Uses Allowed by Zoning District**A** Use is allowed by right in the zoning district indicated.**S** Use is allowed in the district if approved as a Special Use.**A/S** Use is allowed by right unless approval as a Special Use is required in Article 3.

NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
81149	Other Personal and Household Goods Repair and Maintenance, such as jewelry, musical instruments, watch and clock repair, and bi-cycle repair									A	A	A	A							b.23.
8121	Personal Care Services:																			
81211	Barber Shops and Beauty Salons								A/S	A	A	A	A		S				Sec. 314 Sec. 317	b.23.
812113	Nail Salons								A/S	A	A	A	A						Sec. 317	b.23.
812191	Diet and Weight Reducing Centers									A	A	A	A							b.23.
812199	Massage Therapy Establishment, Saunas										A								Sec. 332	b.23.
812199	Tanning Salons									A	A	A	A							b.23.
812199	Tattoo and Body Piercing Studios										A								Sec. 339	b.23.
8123	Dry-Cleaning and Laundry Services:																			
81231	Coin-Operated Laundries										A	A	A							b.17.
81232	Dry-Cleaning and Laundry Services (except Coin-Operated)									A	A	A	A						Sec. 320	b.17.
812331	Linen and Uniform Supply; Industrial Launderers															A	A			b.17.
	Health Related Services:																			
6216	Home Health Care Services										A					A				b.1.
62191	Ambulance Services															A				b.1.
621991	Blood and Organ Banks															A				b.1.
	Other Personal Services:																			
81221	Funeral Homes										A	A	A	A		S	S			b.4.
81291	Pet Care, such as Grooming and Training (not including Veterinary Services and Pet Boarding Kennels)										A	A	A							b.23.
81291	Pet Boarding Kennel, without Outdoor Runs										A					A			Sec. 329	b.23.
81291	Pet Boarding Kennel, with Outdoor Runs															S			Sec. 329	b.23.

Table 2-C: Principal Uses Allowed by Zoning District

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NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
81293	Parking Lots and Garages										A	A	A							--
81299	Bail Bonding or Bondsperson Services										S									b.23.
532	Rental and Leasing Services:																			
53211	Passenger Car Rental and Leasing												A							b.8.
53212	Truck, Utility Trailer and RV (Recreational Vehicle) Rental and Leasing															A	A			b.8.
5322	Consumer Goods Rental										A	A	A							Refer to Table 4-B
53241	Construction, Transportation, Mining and Forestry Machinery and Equipment Rental and Leasing															A	A			b.19.
5614	Business Support Services:																			
561422	Telemarketing Bureaus										A			A						b.1.
56143	Business Service Centers (including photocopying shops, blueprinting shops, mailbox rental, etc.)									A	A	A	A							b.21.
	Other Business Services:																			
323111	Commercial Printing Services, with or without Photo-Copying Services (except Screen and Books)									A	A	A	A							c.5.
5182	Data Processing, Hosting and Related Services													A		A				c.3.
51911	News Syndicates													A		A				b.1.
54138	Testing Laboratories															A	A	A		c.5.
5415	Computer Systems Design and Related Services								A/S										Sec. 317	b.1.
72232	Caterers										A	A	A							c.1.
72232	Special Event Facilities										S	S	S							d.7.
541921	Photography Studios, Portrait								A/S	A	A	A	A						Sec. 317	b.1.
54193	Translation and Interpretation Services								A/S		S			A					Sec. 317	b.1.
56191	Packaging and Labeling Services																A	A		c.5.

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NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
5616	Investigation and Security Services:																			
561611	Investigation Services								A/S	A	A	A	A	A	A	A	A	A	Sec. 317	b.1.
561612	Security Guards and Patrol Services																A	A		b.1.
561613	Armored Car Services																A	A		b.1.
561621	Security Systems Services, except Locksmiths																A	A		b.19.
561622	Locksmiths										A	A	A	A	A					b.19.
5617	Services to Buildings and Dwellings										A	A	A			A	A			b.1.
561710	Exterminating and Pest Control Services										A	A	A			A	A			b.1.
561720	Janitorial Services										A	A	A			A	A			b.1.
561730	Landscaping Services										A	A	A			A	A			b.1.
561740	Carpet and Upholstery Cleaning Services										A	A	A			A	A			b.1.
	Construction Services:																			
2382	Construction Contractors, Builders and Developers, with outdoor storage										S	S	S	S		A	A			b.22.
23835	Carpentry Shop, Woodworking										S	S	S			A	A			c.5.
	Job Training Services:																			
6114	Private Business, Technical and Cosmetology Schools and Computer and Management Training													A		S	S	A		d.4. b.23
6116	Private Schools: Personal Enrichment:																			
61161	Performing Arts Studios (Art, Drama, Music and Dance Studios)								A/S	A	A	A	A	A	A	S	S	A	Sec. 317	b.13.
61162	Sports and Recreation Instruction										A	A	A	A		S	S	A		b.13.
61163	Language Schools										S			A		S	S	A		d.4.
611691	Exam Preparation and Tutoring										A	S	S	A		S	S	A		d.4.
611699	Yoga, Pilates and similar Studios								A/S	A	A	A	A						Sec. 317	b.13.
611692	Automobile Driving Schools												A	A		S	S	A		d.4.

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6117	Educational Counseling, Testing and Other Support Services										A	A	A	A		S	S	A		b.23.
Arts, Entertainment and Recreation																				
51912	Libraries and Archives								A/S										Sec. 311	d.7.
7111	Performing Arts Theater: Drama, Dance, Music, Comedy (except Adult Entertainment)								A/S					A		S	S		Sec. 311	d.2.
7111	Adult Entertainment										A						A		Sec. 308	b.12.
7115	Artist's Studios (includes Galleries), except Taxidermists								A/S	A	A								Sec. 311	b.23.
71151	Taxidermists										A	A	A							b.1.
712	Museums, Commercial Historical Sites, and Similar Institutions								A/S	A	A			A		S	S		Sec. 311	d.7.
512131	Motion Picture Theaters (except Drive-Ins)										A	A	A			S	S			b.6.
512132	Motion Picture Theaters, Drive-In										A					S	S			--
7139	Amusement and Recreation Uses:																			
71312	Amusement Arcades										A	A	A							b.12.
71399	Archery or Shooting Ranges, Indoor										A					S	S			b.13.
71394	Batting Cages															A				b.13.
71399	Billiard and Pool Halls										A					A				b.12.
71395	Bowling Centers										A					S	S			b.11.
71394	Fitness Centers, Health Clubs								S	A	A	A	A							b.13.
71391	Golf Course, with or without a Country Club		A																	b.13.
71399	Golf Driving Ranges		A								A					S	S			b.13.
71399	Horse Riding Stables		A																Sec. 326	b.12.
71394	Ice or Roller Skating Rink										A					S	S			b.12.
71399	Miniature Golf										A					S	S			b.12.
71394	Paintball Competition Courses										A					S	S			b.12.

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NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
71399	Recreational Day Camps		S																	b.12.
71394	Water Slides and Wave Pools										A					S	S			b.13.
71399	Recreation Centers, including Non-Profit (e.g. YMCA, Senior Center or Area-wide Recreation Center) and For Profit (e.g. Private Playgrounds, Tennis, Community Swimming Pools or Other Recreation Amenities)									A	A	A	A			S	S			b.13.
Retail Trade																				
441	Motor Vehicle and Parts Dealers:																			
4411	All Motor Vehicle Dealers												A						Sec. 334	b.8.
4413	Automotive Parts, Accessories, and Tire Stores										A	S	A						Sec. 334 Sec. 313	b.8.
442	Furniture and Home Appliance Stores									A	A	A	A							b.18.
443	Electronics and Appliance Stores									A	A	A	A							b.21.
4441	Building Material and Supplies Dealers:																			
44411	Home Centers, no outdoor storage										A	A	A							b.20.
44411	Home Centers, with outdoor storage										A								Sec. 348	b.20.
44412	Paint and Wallpaper Stores										A	A	A							b.19.
44413	Hardware Stores									A	A	A	A							b.19.
44419	Lumber Yards															A	A		Sec. 348	b.22.
44419	Electrical, Heating or Plumbing Stores, no outdoor storage										A	A	A							b.22.
44419	Electrical, Heating or Plumbing Supply Stores, with outdoor storage										S	S	S			A	A		Sec. 348	b.22.
44419	Wood or Ceramic Tile Flooring Stores										S	S	S						Sec. 348	b.20.
44419	Log Home Sales Lots										S	S	S						Sec. 348	b.22.
44419	Other Building Material Dealers not listed above															A	A		Sec. 348	b.22.
4442	Lawn and Garden Equipment and Supplies Stores:																			

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NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
44421	Lawn and Garden Equipment and Supplies Stores										A	A	A							b.20
445	Food and Beverage Stores:																			
44511	Supermarkets and Other Grocery (except Convenience) Stores									A	A	A	A						Sec. 309	b.15.
44512	Convenience Food Stores with fuel pumps (excluding automated car wash)									A	A	S	A						Sec. 309 Sec. 325	b.7.
44512	Convenience Food Stores with fuel pumps (including automated car wash)									S		S	A						Sec. 309 Sec. 312 Sec. 325	b.7.
44512	Convenience Food Stores without fuel pumps									A	A	S	A						Sec. 309	b.23.
4452	Specialty Food Stores, including Meat, Fish, Fruit and Vegetable Markets, Candy Stores								A/S	A	A	A	A						Sec. 309 Sec. 338	b.23.
4453	Beer, Wine and Liquor Stores								A/S		A	A	A						Sec. 309 Sec. 338	b.23.
311811	Retail Bakeries and Pastry Shops								A/S	A	A	A	A						Sec. 338	b.23.
446	Health and Personal Care Stores:																			
4461	Health and Personal Care Stores								A/S	A	A	A	A						Sec. 338	b.16 b.23.
448	Clothing and Clothing Accessories Stores:																			
4481	Clothing Stores								A/S		A	A	A						Sec. 338	b.23.
4482	Shoe Stores								A/S		A	A	A						Sec. 338	b.23.
44831	Jewelry Stores								A/S		A	A	A						Sec. 338	b.23.
44832	Luggage and Leather Goods Stores										A	A	A							b.23.
451	Sporting Goods, Hobby, Book and Music Stores								A/S	A	A	A	A						Sec. 338	b.23.
452	General Merchandise and Department Stores, except Warehouse Clubs and Warehouse Supercenters										A	A	A			S	S			b.14.
45291	Warehouse Clubs and Warehouse Supercenters										S	S	S			S	S		Sec. 309	b.14.

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453	Miscellaneous Store Retailers:																			b.23.
4531	Florists								A/S	A	A	A	A		S				Sec. 322 Sec. 338	
45321	Office Supplies Stores										A	A	A							b.23.
45321	Stationery Stores								A/S	A	A	A	A		S				Sec. 338	b.21.
45322	Gift, Novelty and Souvenir Stores								A/S	A	A	A	A		S				Sec. 338	b.23.
4533	Antiques Shop								A/S		A	A	A						Sec. 338	b.23.
4533	Used Books, Second-Hand Clothing, Indoor Flea Markets and Other Used Merchandise Stores (not including Pawnshops or Antique Shops)										A	A	A							b.23.
4533	Pawnshop										S	S	S						Sec. 335	b.23.
45391	Pet and Pet Supply Stores										A	A	A							b.23.
45392	Art Dealers								A/S		A	A	A						Sec. 338	b.23.
45393	Manufactured Home Dealers										S	S	S							b.8.
453991	Cigar, Tobacco and Other Smoker's Supply Stores										S									b.23.
453998	Swimming Pool and Pool Supply Stores, no outdoor storage										A	A	A			S	S			b.23.
453998	Swimming Pool and Pool Supply Stores, with outdoor storage										S					S	S		Sec. 348	b.8.
453998	Permanent Fireworks Shop										A	A	A			A	A			
722	Food Services and Drinking Places:																			
722511	Restaurants, Full-Service								A/S		A	A	A						Sec. 309	b.9.
722511	Brewpubs								A/S		A	A	A						Sec. 309	b.9.
722513	Restaurants, Limited-Service, including Fast Food and Take-Out, with drive-through windows										A	S	A							b.10.
722513	Restaurants, Limited-Service, including Fast Food and Take-Out, without drive-through windows.								A/S		A	A	A						Sec. 309	b.10.

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722513	Restaurants, Drive-In										A	S	A							b.10.
722514	Cafeterias, Grill Buffets and Buffets								A/S		A	A	A						Sec. 338	b.9.
722213	Specialty Snack Shops and Non-Alcoholic Beverage Bars, including Coffee Shops, Donut Shops, Ice Cream Shops and Bagel Shops								A/S	A	A	A	A						Sec. 338	b.10.
7224	Bars, Taverns and Other Drinking Places (Alcoholic Beverages)								A/S		A								Sec. 309 Sec. 338	b.10.
722	Mobile Kitchens								S	S	S	S	S						Sec. 350	
Manufacturing, Wholesaling and Warehousing																			Sec. 348	
311	Food Manufacturing, except Animal Slaughtering and Retail Bakeries (Retail Bakers are addressed under <i>Retail Trade</i>)															A	A			c.5.
31211	Beverage Product (non-alcoholic) Manufacturing															A	A			c.5.
31212	Brewery								A/S		S	S	S			A	A		Sec. 309 Sec. 338	c.5.
31213	Winery								A/S							A	A		Sec. 309 Sec. 338	c.5.
31214	Distillery															A	A		Sec. 309	c.5.
3122	Tobacco Product Manufacturing															A	A			c.5.
312113	Ice Manufacturing															A	A			c.5.
313	Textile Mills															A	A			c.5.
314	Textile Product Mills															A	A			c.5.
315	Apparel Manufacturing, except Tailors and Dressmakers															A	A			c.5.
31521	Tailors and Dressmakers								A/S		A	A	A						Sec. 338	b.23.
316	Leather and Allied Product Manufacturing															A	A			c.5.

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321	Wood Product Manufacturing, except Sawmills and Wood Preservation															A	A			c.5.
321113	Sawmills with Storage Lots										S	S	S			A	A			c.5.
321999	Mulching Operation										S	S	S							c.5.
322	Paper Manufacturing															S	S			c.5.
323	Printing and Related Support Activities, except Photocopying and Duplicating Services (instant printing)															A	A			c.5.
324	Petroleum and Coal Products Manufacturing, except Petroleum Refining and Asphalt Paving, Roofing, and Saturated Materials Manufacturing															S	S			c.5.
32411	Petroleum Refining															S	S			c.5.
32412	Asphalt Paving, Roofing, and Saturated Materials Manufacturing																A			c.5.
325314	Composting Operation										S	S	S							c.5.
3254	Pharmaceutical and Medicine Manufacturing															S	S			c.5.
32592	Explosives Manufacturing															S	S			c.5.
3261	Plastics Product Manufacturing															S	S			c.5.
3262	Rubber Product Manufacturing															S	S			c.5.
327	Concrete, Clay, Stone, Glass and other Nonmetallic Mineral Product Manufacturing																A			c.5.
331	Primary Metal Manufacturing																A			c.5.
332	Fabricated Metal Products Manufacturing															A	A			c.5.
334	Computer and Electronic Product Manufacturing															A	A			c.5.
335	Electrical Equipment, Appliance and Component Manufacturing															A	A			c.5.
336	Motor Vehicle and Other Transportation Equipment Manufacturing															A	A			c.5.
337	Furniture and Related Product Manufacturing															A	A			c.5.

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339	Miscellaneous Manufacturing:																			
33911	Medical Equipment and Supplies Manufacturing, except Dental Laboratories												A			A	A			c.5.
339116	Dental Laboratories										A	A	A	A	A	A	A			c.5.
33991	Jewelry and Silverware Manufacturing															A	A			c.5.
33992	Sporting and Athletic Goods Manufacturing															A	A			c.5.
33993	Doll, Toy, and Game Manufacturing															A	A			c.5.
33994	Office Supplies (except Paper) Manufacturing															A	A			c.5.
33995	Sign Manufacturing															A	A			c.5.
339991	Gasket, Packing, and Sealing Device Manufacturing															A	A			c.5.
339992	Musical Instrument Manufacturing								A/S							A	A		Sec. 332	c.5.
339993	Fastener, Button, Needle, and Pin Manufacturing															A	A			c.5.
339994	Broom, Brush, and Mop Manufacturing															A	A			c.5.
339995	Burial Casket Manufacturing															A	A			c.5.
33999	Other Miscellaneous Manufacturing not listed above															A	A			c.5.
42	Wholesale Trade:																			
42	Wholesale Trade with Customer Showrooms, no Outdoor Storage (includes Distribution Centers)										A	A	A			A	A			c.4.
42	Wholesale Trade with Outside Storage, except Junk and Scrap Yards															A	A			c.1.
4542	Vending Machine Operators										A	A	A			A	A			c.1.
45431	Fuel Dealers																A			c.2.
493	Warehousing and Storage:																			
49311	General Warehousing and Indoor Storage										A					A	A			c.3.
49311	General Warehousing and Outdoor Storage										S					S	S			c.3.
49312	Refrigerated Warehousing (Cold Storage)															A	A			c.3.

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49313	Farm Product Warehousing and Storage																A			c.3.
49319	Bulk Petroleum Storage and other Bulk Storage Tanks																A		Sec. 315	c.2.
53113	Mini-Warehouses and Self-Storage Units										S	S	S			A	A		Sec. 333	c.4.
5121	Motion Picture Industries										S	S	S			A	A			c.5.
5122	Sound Recording Industries								A/S			A	A						Sec. 337	c.5.
562	Waste Management and Remediation Services (includes Junk Yards, Scrap Yards)																A		Sec. 328	c.2.
Transportation, Communications and Utilities																				
481	Airports and Other Air Transportation:																			
4811	Airport																A			--
4812	Private Airstrip or Heliport										S					A	A			--
482	Rail Transportation:																			
4821	Rail Transportation Company Office												S							b.1.
4882	Rail Yards, Rail and Train Service and Repair												S							c.5.
484	Truck Transportation:																			
48411	General Freight Trucking, Local															A	A			c.3.
48412	General Freight Trucking, Long-Distance															A	A			c.3.
48422	Specialized Freight (except Used Goods) Trucking, Local															A	A			c.3.
48423	Specialized Freight (except Used Goods) Trucking, Long-Distance															A	A			c.3.
485	Transit and Ground Passenger Transportation:																			
4853	Taxi and Limousine Service										A	A	A							b.1.
4855	Charter Bus Industry												A							b.1.
485991	Special Needs Transportation												A							b.1.
485999	Shuttle Services, Vanpools and Other Ground Passenger Transportation												A							b.1.

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488	Support Activities for Transportation:																			b.1.
48841	Motor Vehicle Towing and Wrecker Services												A			A	A			
4885	Freight Transportation Arrangement Agents and Brokers												A			A	A			b.7.
488991	Packing and Crating												A			A	A			b.1.
492	Couriers and Messengers:																			c.3.
4921	Intercity Couriers (FedEx, UPS), package drop-off only										A	A	A							b.1.
4921	Intercity Couriers (FedEx, UPS), sorting and forwarding										A	A	A							c.3.
4922	Local Messengers and Local Delivery										A	A	A							b.1.
515	Broadcasting and Telecommunications:																			
5151	Radio and Television Broadcasting Stations								A/S			A	A			A	A		Sec. 337	b.1.
5152	Cable and Other Subscription Distribution															A	A			b.1.
5171	Telephone and Other Wired Telecommunications Carriers										A	A	A							b.1.
5172	Cellular and Other Wireless Telecommunications Carriers (except Satellite)										A	A	A							b.1.
5173	Telecommunications Resellers										A	A	A							b.1.
5174	Satellite Telecommunications										A	A	A							b.1.
5179	Radio, Television and Telecommunications Antennae and Towers:																			
5179	Freestanding Towers and Antennae		See Article 3, Section 343																	--
5179	Additions to Existing Towers (Colocation)																			--
22	Utilities:																			--
22112	Electric Power Transmission Substations (Transformer Stations)			A															Sec. 321	--
2212	Natural Gas Distribution (includes Gas Regulator Stations)			S																--
Public and Institutional Uses																				

Table 2-C: Principal Uses Allowed by Zoning District**A** Use is allowed by right in the zoning district indicated.**S** Use is allowed in the district if approved as a Special Use.**A/S** Use is allowed by right unless approval as a Special Use is required in Article 3.

NAICS 2012	PRINCIPAL USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	CBD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	M-1	M-2	RD	See Also Article 3	For Parking, See Table 4-B:
8131	Churches, Mosques, Temples, Synagogues and Other Facilities for Religious Organizations Worship		S	S	S	S	S							A	A					d.2.
8132	Charitable Organization Offices		S	S	S	S	S							A	A					b.1.
8133	Social Advocacy Organizations		S	S	S	S	S							A	A	S	S			b.1.
8134	Fraternal Lodges, Veterans Membership Organizations, and Other Civic and Social Organizations		S	S	S	S	S							A	A	S	S			d.7.
8139	Business, Professional, Labor, Political and Similar Organizations		S	S	S	S	S							A	A	S	S			b.1.
622	Hospitals:																			
622	General, Surgical and Specialty Hospitals										A			A		S	S			d.1
6214	Clinics and Outpatient Medical Care Centers										A	A	A	A						b.3.
6241	Social Services Assistance, including Individual and Family Services										A			A		S	S			b.1.
6242	Community Food and Housing, and Emergency and Other Relief Services													A		S	S			b.1.
81222	Cemeteries		S								A								Sec. 316	--
81222	Mausoleums															S				--
81222	Crematories																S			--
6111	Private Schools: Kindergarten, Elementary, Secondary, Junior College and Universities			S	S	S	S							A		S	S			d.5., d.6.
92214	Correctional Institutions															S	S			--

Table 2-D: Accessory and Temporary Uses Allowed by Zoning District

A Use is allowed by right in the zoning district indicated.

S Use is allowed in the district if approved as a Special Use.

NAICS 2012	USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	CBD	M-1	M-2	RD	See Also Article 3:
	ACCESSORY USES																		
	Agricultural Accessory Uses																		
	Accessory Structures Customary to a Working Farm, Such as a Barn, Stable, Silo, Poultry House, Corral, Shed, etc.		A																Sec. 310
	<i>Agricultural Produce Stand:</i>																		
	Farmer's Market, Agricultural Products Produced On-Premises)		A																
42441	Farmer's Market, Agricultural Products Produced Off-Premises									A									
	Farm Tenant Dwelling		A																Sec. 346
	Farm Pond and Fishing Lake		A																
	Horse Stable, Personal		A																Sec. 326
	Residential Accessory Uses																		
	Accessory Uses and Structures Customary to a Dwelling, such as a carport, private garage, shed, outdoor swimming pool, play equipment, etc.		A	A	A	A	A	A										A	
	<i>Home Occupation:</i>																		
	Home Office	A	A	A	A	A	A	A											Sec. 345
	Beauty Parlor or Barber Shop		S	S	S	S	S	S											Sec. 345
	Family Day Care		S	S	S	S	S	S											Sec. 319
	Horse Stable, Personal		A																Sec. 326
	<i>Raising and Keeping of Farm Animals for Non-Commercial Purposes</i>																		
1121	Cattle		S																Sec. 310
1122	Hogs and Pigs		A																Sec. 310
1123	Poultry		A	S															Sec. 310

Table 2-D: Accessory and Temporary Uses Allowed by Zoning District**A Use is allowed by right in the zoning district indicated.****S Use is allowed in the district if approved as a Special Use.**

NAICS 2012	USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	CBD	M-1	M-2	RD	See Also Article 3:
1124	Sheep and Goats		A																Sec. 310
11291	Bees and Bee Products		A	S															Sec. 310
11292	Horses and Other Equines		A																Sec. 310
11293	Rabbits and Other Fur-Bearing Animals		A	S															Sec. 310
	Nonresidential Accessory Uses																		
	Automatic Teller Machine (ATM) customary to a bank or financial institution without drive-in facilities								A	A	A	A	A		S				
	Automatic Teller Machine (ATM) customary to a bank or financial institution with drive-in facilities									A	S	A	A						✓
	Accessory Uses Customary to a Church or Other Place of Worship (meeting facilities, administrative office, parsonage, classrooms/schools, cemeteries and mausoleums, day care)		S	S	S	S	S						A	A					✓
6242	Community Food Bank and Housing, and Emergency and Other Relief Services (accessory to a Church or Other Place of Worship)												S						
	Accessory Uses Customary to Commercial and Industrial Uses, except automated car wash accessory to gasoline stations and convenience stores with fuel pumps									A	A	A				A	A		
	Automated car wash accessory to gasoline stations and convenience stores with fuel pumps								S	S		S				S	S		Sec. 312
6244	Accessory Day Care Centers (above 15 children in care)								S	S			S						Sec. 319
6244	Accessory Group Day Care Center (7-15 children)								S	S			S						Sec. 319
	Accessory Retail Uses within an Office, Hospital, Hotel or Multi-Family Building												A		A				

Table 2-D: Accessory and Temporary Uses Allowed by Zoning District**A** Use is allowed by right in the zoning district indicated.**S** Use is allowed in the district if approved as a Special Use.

NAICS 2012	USES	R-TH	RA-200	R-100	R-75	RM	MH	HRD	C-1	C-2	HC-Retail	HC-Auto	O-I	O-N	CBD	M-1	M-2	RD	See Also Article 3:
	Clinics, Cafeterias and Employee Credit Unions within an Office Building (for employees only)									A	A	A	A	A	A	A	A		
	Accessory Uses Customary to a Golf Course		A							A									
	Dumpster/Waste Container					A	A		A	A	A	A	A	A	A	A	A	A	Sec. 306.07
481219	Helicopter Landing Pad									S			S			S	S		
	Manufacturing of Products for Sale On-Site																		
	Outdoor Display Area								A	A	A	A						A	Sec. 347
	Outdoor Storage Area, except Equipment									S	S	S	S						Sec. 348
	Outdoor Storage Yard, Equipment									S	S	S	S			A	A		Sec. 348
	Temporary Office for a Development		A	A	A	A	A											A	
	Night Watchman Residence															A	A		
	Unattended Donation Box								A	A	A	A	A						Sec. 349
	TEMPORARY USES																		
8131	Charitable or non-profit events								A	A	A	A							Sec. 341
	<i>Temporary Sales Events:</i>																		
45439	Retail Sales of Seasonal Items								A	A	A	A							Sec. 341
45439	Tent Sale								A	A	A	A							Sec. 341
45439	Outdoor Markets and Swap Meets								A	A	A	A							Sec. 341
45439	Yard or Garage Sale		A	A	A		A	A											Sec. 341
	<i>Temporary Entertainment Events:</i>																		
71119	Carnival Rides									A	A	A							Sec. 341
71119	Community Festival														A				Sec. 341

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Article 3. Restrictions on Particular Uses

Article 3 provides land use and development regulations for specific uses that are applicable to sites throughout the City of Duluth. Unless otherwise noted, these standards are intended to be applied within all zoning districts where the particular uses are allowed, whether by right or through special use approval.

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Article 3. Restrictions on Particular Uses

DIVISION I. RESTRICTIONS THAT APPLY GENERALLY.

Section 301. City and County Approvals That Are Required.

All city and county approvals that are required for the use of land and structures and for the location and operation of businesses and industries shall be obtained by the applicant and transmitted with the request for a building permit, an occupancy permit, a zoning amendment, a planned unit development, a conditional use, or a variance. Except as otherwise require by state law, no local action shall be taken and no public hearings shall be held until the above-required approvals have been obtain by the applicant.

Section 302. Additional Code and Licensing Requirements.

All land uses, buildings and businesses must comply with all applicable provisions of the Code of Ordinances of the City of Duluth, Georgia.

Section 303. Outdoor Lighting Standards.

303.01 Applicability.

- (a) Outdoor lighting installations which are employed for nighttime area illumination of parking lots, car sales lots, yards, roadways, streets, driveways, walkways, bikeways, cartways, entryways, and similar areas or lots; and
- (b) Outdoor lighting installations which are located on any property in any zoning district within the City of Duluth except for the following:
 - (1) A lot which is comprised of one single family dwelling.
 - (2) Public buildings, City of Duluth public parks, including during community events/gatherings, sports, recreational or special occasion activities and related activities.
 - (3) CBD and HRD Districts.
 - (4) Temporary lighting installations include, but are not limited to, seasonal or holiday displays, carnivals, community fairs, sales/promotional display with approved temporary use permits.
 - (5) Street lights along public road rights-of-way and approved private streets.

303.02 Use of Cutoff Luminaires Required.

- (a) All luminaires employed in outdoor area lighting installations shall be the cutoff luminaire type.
- (b) The candlepower distribution classification of the luminaire as a cutoff type shall be in accordance with ANSI/IES Lighting Definitions and The IES Lighting Handbook. The manufacturer of the luminaire shall provide certification of the cutoff classification based on photometric testing performed in accordance with the IES Lighting Handbook and the applicable testing procedures referenced herein. The requirement for the use of cutoff luminaire types shall include, but not limited to, the following outdoor area and roadway lighting configurations:
 - (1) Pole mounted luminaires.

- (2) Luminaires mounted on the exterior of the buildings and structures.
- (3) Pedestal or bollard mounted luminaires.

Illustrative Examples of Full Cutoff Pole Mounted Luminaires:



Illustrative Examples of Mounted Full Cutoff Luminaires and Bollard Mounted Luminaires:



(c) Cutoff luminaires shall be mounted plumb and level with accordance with the intended application of their design. For the purposes of this Code Section, the photometric nadir of the luminaire (zero degree vertical angle of the candlepower distribution) shall be oriented plumb and the vertical angle of 90 degrees above nadir (horizontal) shall be oriented level. Cutoff luminaires shall not be installed in a canted or tilted position, which permits candlepower distribution above the horizontal.

(d) Exceptions.

- (1) Luminaires which do not meet the strict definition for cutoff luminaires, yet employ advanced or alternated technology which caused the photometric performance to approach that of cutoff luminaires, shall be approved by the Planning and Development Director on a case by case basis.
- (2) Luminaires with a total initial output of 10,000 lumens or less shall be permitted for decorative, accent, or supplementary lighting applications provided that glare shields are incorporated which cut off the candlepower distribution at and above the horizontal level.

(e) Use of Glare Shields Required for Non Cutoff Luminaire Types.

Where non-cutoff luminaires such as floodlights are used to meet the lighting objectives for outdoor sports and recreational lighting, the luminaires shall be equipped with glare shields, visors, protectors and similar shielding accessories as required to meet the criteria in this Section 303.



303.03 Maximum Maintained Illuminance Level.

The maximum maintained illuminance levels permitted at the property line(s) during the nighttime, produced by the sum of all outdoor area lighting installations on said property, shall be at grade in Horizontal Footcandles or Horizontal Lux according to Table 3-A.

(a) Exceptions.

- (1) By written agreement between the respective property owners, an outdoor lighting installation on one property may illuminate area or roadways on adjacent properties beyond the property line.
- (2) This requirement does not apply to outdoor roadway lighting installations intended for the nighttime illumination of public roadways, streets, highways, alleys, cartways, and the like.
- (3) At designated vehicular, cyclist, and pedestrian entries/exits between properties and public roadways, streets, highways, alleys, cartways, and the like; provided that the excepted area of illumination (maintained illuminance levels at grade higher than permitted in Table 3-A is limited to the said property and the adjoining pavement and right-of-way of public roadways, streets, highways, alleys, cartways and the like. The excepted area of illumination shall not extend beyond 50 feet from the centerline of the designated entry/exit in any direction along the property lines of said property.

Table 3-A: Maximum Allowed Maintained Illuminance Levels Produced by Outdoor Area Lighting at Property Lines

Outdoor Area Lighting Installation	Maximum Maintained Illuminance Level Allowed at Property Line (At Grade)	
	Measured in Horizontal Footcandles	Measured in Horizontal Lux
Located on property and property line adjoins a public roadway or public right of way	0.5	5.4
Located on property and property line adjoins a non-residential property	0.2	2.2
Located on property and property line adjoins a residential property	0.1	1.1

303.04 Requirements for Outdoor Sports and Recreational Lighting.

- (a) Outdoor lighting installations which are employed for nighttime area illumination of sports and recreational facilities, but not limited to, ballfields, ballparks, stadiums, tennis courts, water slides, paintball facilities, drive-in theaters, soccer fields, golf courses, driving ranges, and recreation fields, and the like shall meet the following requirements.
- (1) The candlepower distribution from all lighting installations shall be cut off at and above the horizontal level.
 - (2) To the extent practicable, the candlepower distribution from all lighting installations shall be further cut off at angles below the horizontal level to restrict direct illumination to within the functional area being illuminated for sports and recreation purposes.
- (b) The maximum maintained illuminance levels permitted at the property line(s) during the nighttime, produced by the sum of all outdoor sports and recreation lighting installations on said property, shall be as measured at grade in horizontal footcandles or horizontal lux according to Table 3-A.



Illustrative example of lighting that cuts off candlepower above the horizontal level by using "full cutoff luminaires."

303.05 Control of Nuisance and Disabling Glare.

- (a) All outdoor lighting, whether or not required by this Code Section; on private, residential, commercial, industrial, recreational, or institutional property; shall be aimed, located, designated, fitted, and maintained so as not to present a disabling glare hazard to neighboring owners/residents, drivers or pedestrians or a nuisance glare concerns to neighboring properties.
- (b) Directional fixtures such as flood lights, spot lights, and night lights shall be installed or aimed so that they do not shine directly into the window of a neighboring residence, directly into a roadway, or skyward.
- (c) Unless otherwise permitted by the Planning and Development Director, lighting shall be controlled by automatic switching devices such as, timers, motion detectors and/or photocells, to extinguish offending sources between nighttime and morning, to mitigate glare and sky-lighting consequences.
- (d) Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, such control shall be achieved primarily through the use of cut off fixtures, the appropriate application of mounting height, wattage, aiming, angle, fixture placement and fixture design, etc. and the additions of shields and baffles as necessary.
- (e) The amount of illumination projected onto a residential use from another property shall not exceed 0.1 vertical foot candle at the property line.

303.06 Installation.

- (a) Electrical feeds for lighting standards shall be run underground, not overhead.
- (b) Lighting standards in parking areas shall be placed a minimum of 5 feet outside paved area, or on concrete pedestals at least 30 inches high above the pavement, or suitably protected by other approved means.

303.07 Maintenance.

Lighting fixtures and ancillary equipment shall be maintained so as to always meet the requirements of this Development Code.

303.08 Plan Submission.

- (a) Lighting plans shall be submitted to the Planning and Development Department for review and approval and shall include:
 - (1) Layout of the proposed fixture locations.
 - (2) Iso-footcandle plots of individual installations and 10x10 illuminance grid plots for multifixture installations, that demonstrate compliance with the intensities and uniformity set forth in this Code Section.
 - (3) Description of the equipment, including fixture catalog cuts, photometrics, glare reduction devices and mounting methods proposed.
- (b) When requested by the Planning and Development Department, applicant shall submit a visual impact plan that demonstrates appropriate steps have been taken to mitigate on-site and off-site glare.
- (c) Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the Planning and Development Department for review and approval.

(d) This Code Section does not supersede established development regulations any way.

303.09 Post Installation Inspection.

The City of Duluth reserves the right to conduct a post-installation nighttime inspection to verify compliance with the requirements of this Code Section, and if appropriate, to require remedial action at no expense to the City.

303.10 Nonconforming Lighting.

Any lighting fixture existing on the effective date of this Development Code which does not conform with the requirements of this Code Section shall be considered a lawful, nonconforming lighting fixture, subject to the following:

- (a) A nonconforming lighting fixture shall be made to comply with the requirements of this Code Section when such fixture is replaced, relocated or repaired.

303.11 Compliance Monitoring.

- (a) Safety Hazard.

If determined by the Planning and Development Director that a lighting installation creates a safety or personal security hazard, the person(s) responsible for the lighting shall be notified and requested to take timely remedial action.

- (b) Nuisance Glare and Inadequate Illumination Levels.

When the Planning and Development Director determines that installation produces unacceptable levels of nuisance glare or skyward light or that illumination levels are insufficient or not being maintained in accordance with this Code Section, the Code Enforcement Officer shall cause notification of the person(s) responsible for the lighting and request remedial action.

Section 304. Standards for Single-Family Detached and Single-Family Attached Dwellings.

All single-family detached dwellings and single-family attached dwellings shall meet or exceed the following requirements in order to be constructed or assembled within the City of Duluth with the exception of dwellings constructed in the Central Business District (CBD) which shall be governed by Section 205.14.

304.01 Overhangs.

Overhangs may project into a required setback a maximum of 4 feet, but in no case into a road right-of-way or closer than 10 feet roof line to roofline to another building. Examples of overhangs include; balconies, decks, stoops, cantilever walls, bay windows or other appurtenances as determined by the Planning and Development Director.

304.02 Fences and Freestanding Walls.**(a) Building Permit Required.**

All commercial and residential fences and freestanding walls exceeding 7 feet in height are required to obtain a building permit from the City of Duluth.

(b) Maximum Height Limitations.

No wall or fence shall exceed 8 feet in height within a side yard or rear yard and shall not extend into a required front yard with the exception of decorative fences, as described in Subsection (c) below. A wall or fence may extend into the required exterior side yard.

(c) Design Standards for Decorative Fences.

Fences within the required front yard must meet the following specifications and conditions:

- (1) The maximum height shall be 3 feet.
- (2) Fence shall be constructed with natural wood, simulated wood, brick columns or decorative ornamental iron only.
- (3) The distance between the pickets must be a minimum of 2 inches.
- (4) The color of the fence must be natural wood colors, neutral colors such as white, beige, ivory, cream off-white, or black, dark green wrought iron or the same color as the facade of the primary structure on the property.
- (5) The fence shall be maintained at all times by the property owner and/or occupant of the property.
- (6) Electric fencing is prohibited, with the exception that invisible fencing used to contain domestic animals on the property is allowed.

**304.03 Single-Family Attached (Townhomes).**

- (a) There shall be a minimum of three units and a maximum of eight units per building of attached townhome units.
- (b) No dwelling shall be situated as to face the rear of another dwelling structure within the development or on adjoining properties, unless differences in terrain and elevation would provide effective visual separation.
- (c) No more than two contiguous dwellings that form a part of a single building shall have the same setback or roof line. Said setback and roof line shall be varied by a minimum of two feet.
- (d) Required building materials are brick, stone, and/or natural wood or Cement-based Artificial Wood Siding (Hardi-Plank/Board) siding.
- (e) Material or color changes should occur at a change of plane.
- (f) Private, usable open space, such as balconies, sun decks, patios, etc., shall be provided contiguous to each dwelling unit. The area of such open space provided for each unit shall not be less than 10 percent of the floor area of the unit served. The location and number of square feet shall be clearly indicated on the site plan.



Illustrative examples of private, usable space per townhome unit and covered parking (see also the Parking and Loading Requirements Article).

Illustrative Examples of the Standards in Section 3.04.03, subsections (a), (c), (d) and (e):

Two-story (min.)
and Minimum of 3
Units per Row of
Townhomes



- (g) For fee-simple townhouses, each lot shall have a minimum area of 1,800 square feet. This requirement may be waived by the Department of Planning and Development for zero lot line townhomes, provided that the developer includes a provision in the Covenants, Conditions and Restrictions for the project that clearly describe the maintenance and access of all common areas, streets, alleys and driveways.
- (h) Each lot shall have a minimum width of twenty-two (22) feet.
- (i) Building coverage shall not exceed 80% of any lot. This requirement may be waived by the Department of Planning and Development for zero lot line townhomes.

- (j) The minimum heated floor area for a townhouse unit shall be 2,200 square feet.
- (k) Townhouse buildings shall be separated by a minimum of twenty (20) feet. Architectural features may be allowed to extend into the building separation requirement.

Section 305. Standards for Multi-Family Dwellings.

All multi-family dwellings located in any zoning district must comply with the requirements of this Section.

305.01 Apartments.

- (a) Required building materials are brick, stone, high quality stucco and/or natural wood or Cement-based Artificial Wood Siding (Hardi-Plank/Board) siding.
- (b) Apartment buildings shall be constructed to condominium standards per applicable building codes and state standards. Requirements include, but are not limited to:
 - (1) Installing an individual water meter for each unit;
 - (2) Installing independent electrical power metering and internal cabling (internet, TV, phone) for each unit; and
 - (3) Soundproofing common walls by means of construction techniques or air gaps.

Section 306. Standards for Nonresidential Uses.

All new construction and alterations of buildings within commercial and industrial zoning districts, other than the CBD zoning district, shall meet the requirements of this Section.

306.01 Intent.

The intent of these standards is to achieve high quality non-residential development that utilizes a common palette of attractive, durable building materials and, as such, enhances the visual appeal of the community as a whole. The following design standards are intended to, over time, establish a streetscape and image that makes the City of Duluth unique to other surrounding jurisdictions, establishes a unifying theme, presents the traveling public with a sense of arrival, is harmonious with its surroundings, is aesthetically pleasing and enhances the character of the community.

306.02 Alternate Standards.

- (a) These standards are intended to be followed as outlined below. In the event the intent of these standards can be achieved with minor deviations that do not substantially affect the purpose and intent of this Section, the Planning and Development Director has the authority to modify the specific provisions on a case-by-case basis.
- (b) If substantial modifications or changes are desired for a particular property or project, the property owner may present proposed modifications to the Planning Commission for review. Any application for alternate architectural design standards shall be accompanied with proposed elevations, building material descriptions and renderings necessary for the Planning Commission to make a determination whether the alternate proposal meets the intent of these standards. The Planning Commission, as part of the approval process, may

include conditions, modifications or requirements deemed necessary to maintain the high level of development quality intended by this Code Section.

306.03 Allowed Building Materials.

(a) The following building materials may be used and combined in accordance with this Code Section, including Table 3-B:

- (1) Brick – Brick (standard sized) is allowed, however thin brick veneers or artificial brick panels (e.g. cementious or fiberboard) which are intended to simulate brick exteriors are not allowed;

Left: An Illustrative Example of Standard-Size Fired Clay Brick (Allowed)



Right: An Illustrative Example of Panel Brick (Prohibited)



- (2) Stone – Natural stone such as, but not limited to, granite, limestone, and marble are allowed building materials;
- (3) Split-Face Block/Concrete Masonry Unit (CMU);
- (4) Tilt/Architectural Pre-Cast Concrete;
- (5) High Grade Stucco;
- (6) Exterior Insulating Finish System (EIFS) that is installed in accordance with the EIFS manufacturer's specifications and by a contractor that is authorized by the EIFS manufacturer to install their product;
- (7) Siding – Natural Wood and/or Cement-based Artificial Wood Siding (Hardi-Plank/Board);
- (8) Glass Panels; and
- (9) Painted Concrete Block.

Illustrative Examples of Primary Building Materials Allowed in Some Commercial and Industrial Applications (see Table 3-B):

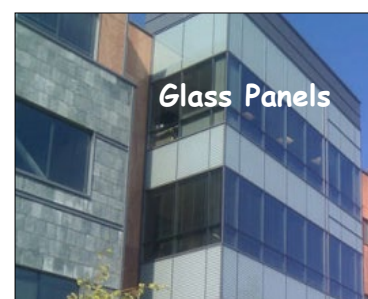


Table 3-B: Allowed Building Materials

Building Materials	Zoning District			
	O-N, C-1	C-2, HC-Retail, HC-Auto, and O-I	M-1, M-2	Institutional Uses* Where Allowed
Brick	Yes	Yes	Yes	Yes
Stone	Yes	Yes	Yes	Yes
Glass Panels	No	Yes	Yes	No
Tilt/Precast Concrete	No	No	Yes	No
CMU/Split-Face Block				
Front/Side	No	No	Yes	Yes
Rear	Yes	Yes	Yes	Yes
Concrete Block				
Front/Side	No	No	No	No
Rear	Yes	Yes	Yes	Yes
Stucco				
Front/Side	Max. 25%	Max. 25%	No	Max. 25%
Rear	Max. 50%	Max. 50%	No	Max. 50%
EIFS				
Front/Side	Max. 25%	Max. 25%	No	Max. 25%
Rear	Max. 50%	Max. 50%	No	Max. 50%
Siding				
Front/Side	Max. 25%	Max. 25%	No	Max. 25%
Rear	Max. 50%	Max. 50%	No	Max. 50%

*A property occupied by a nonprofit religious, recreational or philanthropic organization, club or private school

(b) Accent/Trim Exterior Building Material.

Small amounts of building materials such as wood, tile, etc., may be used to enhance the elevation of the building or for decorative elements but should not exceed 10% of total wall area per facade. Trim colors should have contrasting lighter or darker shade than the primary building color.

(c) Facade Calculations.

- (1) With the exception of accent/trim materials, there shall be no more than two primary building materials used. When a material is restricted as a percentage in Table 3-B, such as stucco, siding, etc., the building material may not be combined with another restricted building material. The allowed facade materials shall not apply to windows, glass-front windows, entry doors and/or roll-up doors.
- (2) The amount of permitted material shall be calculated using the gross square footage of wall area per facade. A building material that is allowed (such as brick) may be used in any percentage throughout the structure. A material that is restricted (such as siding) is allowed as a maximum.

306.04 Architectural Treatment.

- (a) Public entrances must be distinguished from the principal plane of the facade and provide shelter from wind and sun. This may be accomplished by recessing the entranceway, placing in an arcade, under a projecting canopy, or within a mass or tower projecting from the primary facade.
- (b) Blank walls that can be seen from any public or private street are prohibited. Front facades shall have at least 25% of the wall facing the street in window or door areas.



- (c) Pedestrian Oriented Facades: Facades with non-residential active uses must be fenestrated with transparent windows and doorways for no less than 60% of the street frontage at the ground level and allow visibility to the inside of the building. Any fenestration of frontages with active uses must have visibility to the inside of the building with at least 75 percent open to perpendicular view within a 4-foot by 4-foot "visibility zone" at pedestrian eye level. This visibility zone is located between 4 feet and 8 feet in height above sidewalk level and extends 4 feet from the surface of the window glass inside the building.



- (1) Pedestrian Eye Level includes the space that is between 4 feet and 8 feet in height above the adjacent sidewalk level, following the slope if applicable.
- (2) Visibility to the Inside of the Building means that the area inside the building within 4 feet from the surface of the window glass at pedestrian eye level is at least 75 percent open to perpendicular view.
- (d) Walls shall have offsets, jogs, changes in allowable building materials, or other distinctive change in the building facade. Any development consisting of a building longer than 100 feet must have off-sets in the horizontal plane that are at least 18 inches in depth and at least 5 feet in length for every 100 foot of frontage. Horizontal off-sets utilized to accommodate exterior outdoor café type settings must have off-sets in the horizontal plane that are at least 6 feet in depth and 10 feet in length for every 100 feet of frontage.

306.05 Roof Forms and Materials.

- (a) Pitched roofs shall have a minimum slope of 4:12 and a maximum slope of 12:12.
- (b) Pitched roof materials shall be architectural grade shingles, natural slate, natural terra cotta, natural wood shake, copper, or factory finished sheet metal.
- (c) Roof pitches that create overly prominent or uncommon buildings (e.g. A-frames or geodesic domes) are prohibited.
- (d) Flat roofs shall have parapets or cornice features.



- (a) Flat roof materials shall be any material that meets local codes. Exposed metal flashing shall be copper or factory finished sheet metal; if used as a standing seam, the color must blend with adjacent materials or be a color to simulate weathered copper or bronze.
- (b) Rooftop equipment shall be screened by building elements (such as a parapet wall) rather than through add-on screening (such as wood or metal slats).

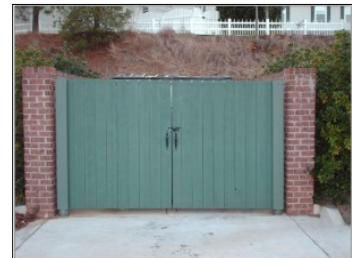
306.06 Placement of Exterior Equipment.

- (a) Ground mounted mechanical, HVAC and similar equipment shall be screened on all sides by dense landscaping or walls constructed of the principal material of the building and located so as not to be visible from the public right-of-way and adjacent properties.
- (b) Roof mounted mechanical units or utility equipment shall be screened from the public right-of-way and adjacent property. The method of screening shall be integrated with the structure in terms of its architectural form, materials, color, shape and size. See also Section 306.05(b).

306.07 Dumpster Enclosures.

- (a) Dumpsters shall be screened on all sides with a minimum 6-feet high opaque wall in materials substantially similar in appearance to the building on site, with the exception of the access opening. Pedestrian and vehicle access shall be screened by an opaque operable gate of the same height as the wall.
- (b) Dumpsters shall not be located in the front or side yards and shall be screened from sight of adjacent lots and streets.

Dumpsters shall be placed on a concrete pad with sufficient strength to support service vehicles.



Illustrative example of a dumpster enclosure utilizing approved building materials and providing an opaque access gate.

306.08 Fencing.

- (a) Fencing shall be allowed in the side or rear yard in all zoning districts.
- (b) No fence shall exceed 8 feet in height.
- (c) Fencing may be constructed of natural wood, simulated wood, brick, stone, iron, aluminum or vinyl coated chain link.
- (d) Solid metal sheathing, electric fencing, and barbed wire or similar material shall be prohibited.
- (e) Fencing shall be allowed in the front yard in M-1 and M-2 industrial zoning districts subject to the following additional standards:
 - 1) All front yard fences shall be setback a minimum of five feet (5') from the property lines.
 - 2) Fences shall be decorative in nature and constructed of iron or aluminum panels with brick or stone columns every thirty feet (30') minimum.
 - 3) All points of vehicular ingress and egress must maintain adequate sight distance for each driveway that approaches a street. The minimum corner sight distance from the approaching street shall be equal to or exceed 10 times the regulated speed of the intersecting street, as measured from the center of the approaching street in both directions along the right-of-way line of the intersected street.
 - 4) A five foot (5') landscape strip, planted in accordance with Article 7 of this code, shall be required directly outside of the fence.

DIVISION II. RESTRICTIONS THAT APPLY TO SPECIFIC USES.**Section 307. Administrative, Financial and Professional Offices.**

Special use approval is required to locate on the ground floor of a building in the CBD zoning district except in free standing, multi-story buildings with a minimum of 15,000 square feet of heated floor area.

Section 308. Adult Entertainment.

An adult entertainment establishment shall be subject to the location requirements and all other rules and requirements of the City of Duluth Code of Ordinances, Adult Entertainment Ordinance as well as all other current and future pertinent local, state, and federal ordinances.

Section 309. Alcoholic Beverage Sales.

An establishment that sells alcoholic beverages shall be subject to the location requirements and all other rules and requirements of the City of Duluth Code of Ordinances, *Alcoholic Beverage Consumption, Licensing and Regulations*, as well as all other current and future pertinent local, state, and federal ordinances.

Section 310. Animal Production.

No structure housing poultry or other livestock shall be located closer than 200 feet to any property line.

Section 311. Arts, Entertainment and Recreation.

Special use approval is required for arts, entertainment and recreation uses that exceed 3,500 square feet in the CBD zoning district.

Section 312. Automotive Car Washes.

Approval by Gwinnett County is required for an automotive car wash as either a principal or accessory use. All new commercial conveyor car washes must install operational recycled water systems. A minimum of 50% of water utilized will be recycled.

Section 313. Automotive Repair and Maintenance.

- (a) Outdoor storage, including inoperable vehicles, shall not be allowed.
- (b) Automotive repairs shall be conducted inside the principal building.
- (c) Automotive bays shall not face street frontage.
- (d) All parking and loading areas shall be screened from the road with a 3 foot high landscaped berm (maximum 2:1 slope) and a 10 foot landscape strip in accordance with the standards of the Landscaping, Buffers and Tree Protection Article of this Development Code. See also the Parking Lot Design, Screening, and Location Section in the Parking and Loading Requirements Article of this Development Code.

Section 314. Barber Shops and Beauty Salons.

In the O-N District, there shall be no more than 2 barber/salon chairs.

Section 315. Bulk Storage Tanks.

Any above ground storage area shall be no closer than 500 feet to a residential district and is subject to approval by the Gwinnett County Fire Department.

Section 316. Cemeteries.

Any new cemetery shall meet the following requirements:

- (a) A cemetery may front only a major thoroughfare, collector street or state highway. The entrance and exits to it shall be only from the street on which it fronts.
- (b) A cemetery shall be bordered by a 10 foot wide buffer strip along all of its exterior property lines not bordering the front yard. The buffer strip shall be planted with evergreen trees or shrubs that grow at least 8 feet tall and provide an effective visual screen.
- (c) A cemetery shall be included in a preliminary subdivision plat that has been approved by the Planning and Development Director.

Section 317. Commercial Services.

Special use approval is required for commercial services businesses that exceed 3,500 square feet in the CBD zoning district.

Section 318. Continuing Care Retirement Community.

- (a) The residential portions of the development provide for a density no greater than eight units per acre, said calculation to include the total acreage of the project.
- (b) Before development permits are issued for any residential portion of the development which proposes to sell units in fee simple, the declaration of covenants for the development shall be provided to and reviewed by the City prior to said declaration of covenants being recorded in the public records and prior to any building permit being issued. Said covenants shall as a minimum establish provisions for maintenance of all streets, recreational areas, yards and other common facilities, any requirements for a mandatory homeowners association, buy back provisions or other similar restrictions or obligations placed on owner.
- (c) Approval of the development may be conditioned to a specific site plan and any substantial change or variation in said site plan shall be treated as an amendment of the zoning and must be considered in accordance with the procedures set forth in the Procedures and Permits Article of this Development Code.
- (d) All future development on the property shall conform to the standards adopted for the district, regardless of any change in ownership.
- (e) If one of the services provided takes the form of independent living facilities, the percentage of units devoted to such independent living facilities shall not exceed 60 percent.

Section 319. Day Care Facility.

319.01 Child and Group Day Care Centers.

Playground equipment visible from a public road must be screened from view using a solid wood fence a minimum of 6 feet in height or a combination of chain link fence and landscaping, or berm, or shall otherwise conform to state requirements.

319.02 Family Day Care Homes.

- (a) The outdoor play area shall be enclosed on all sides to a height of at least 4 feet by a fence.
- (b) The principal building of such use shall meet the lot size and setback requirements of the district in which it is located.

Section 320. Dry Cleaning Services.

Pick-up and delivery areas shall not exceed 2,500 square feet of total floor area.

Section 321. Electric Power Transmission Substations (Transformer Stations).

- (a) The site shall be a minimum size of 2 acres.
- (b) Structures are placed not less than 50 feet from any property line.
- (c) The structures are enclosed by a woven fence of wire at least 8 feet high or enclosed as approved by the City of Duluth.
- (d) The lots are suitably landscaped, including a buffer strip at least 10 feet wide along the side and rear property lines but, not extending into the required front yard, planted with evergreen trees and shrubs that grow at least 8 feet tall and prove an effective visual screen.
- (e) No vehicles or equipment are to be stored on the premises.

Section 322. Florist.

In the O-N District, there shall be no more than 25 percent business space of the gross floor area.

Section 323. Forestry and Logging.

323.01 Notice Requirement for Tree Harvesting; Bond Requirement.

- (a) All persons or firms harvesting standing timber in any area within the corporate limits of the city for delivery as pulpwood, logs, poles, or wood chips to any wood yard or processing plant located inside or outside the state shall provide notice of such harvesting operations to the Planning and Development Director prior to cutting any such timber;
- (b) Prior written notice shall be required of any person or firm harvesting such timber for each separate tract to be harvested thereby, and shall be in such form as prescribed by rule or regulation of the director of the state forestry commission, and shall consist of:
 - (1) A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;
 - (2) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under the O.C.G.A. § 48-5-7.5;
 - (3) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and
 - (4) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;
- (c) Written notice may be submitted in person, by transmission of an electronic record via facsimile, or by mail;
- (d) Any persons or firms subject to such notice requirement specified within this Section shall deliver a valid surety bond to the city in the amount of five thousand dollars (\$5,000.00), executed by a surety corporation authorized to transact business in this state, protecting the city, as applicable, against any damage caused by such person or firm as a result of such harvesting. A valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. § 7-1-4 in the amount of the required bond may be provided in lieu of the bond. For purposes of this subsection, any such surety bond shall be valid only for the calendar year in which delivered;
- (e) Notice shall be effective for such harvesting operation on such tract within the city upon receipt of the same by the Planning and Development Director and compliance with the requirements of subsection (d) of this Section and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the Planning and Development Director within three business days after such change;
- (f) Upon receipt by the Planning and Development Director of the notice required by this Section regarding timber-harvesting operations to be conducted in whole or in part within the corporate limits of the city, the Planning and Development Director shall transmit a copy of such notice to the governing authority of Gwinnett County;

- (g) Violation of the notice requirements of this Section shall be punishable by a fine of five hundred dollars (\$500.00). Such violation shall be cited by the Planning and Development Director or other authorized agent of the city and shall be under the jurisdiction of the city municipal court;
- (h) Any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant located inside or outside this state shall not be required to obtain any permit for such harvesting or hauling of forest products as described in this Section, including without limitation any permit for any new driveway in connection with timber harvesting operations; provided, however, that this subsection shall not otherwise limit the authority this city to regulate roads or streets under its jurisdiction in accordance with O.C.G.A. tit. 32. Nothing in this Section shall be construed to waive compliance with any other applicable zoning or development regulations governing the use or development of the property on which the timber harvesting is being conducted.

Section 324. Gasoline Stations, Full Service.

In addition to meeting the requirements of Section 323, a full service gas station shall be limited to four or fewer bays excluding no more than one attached or detached bay for washing cars.

Section 325. Gasoline Stations, No Repairs.

Gasoline station pumps and canopy supports may be located within a front yard setback provided they are located no closer than 15 feet to the highway right-of-way, or not less than the existing setback of any residential structure on abutting lots either the frontage or a side street. In no case shall the canopy extend into the road right-of-way.

Section 326. Horse Riding Stables.

No structure or corral housing horses shall be located closer than 200 feet to any property line.

Section 327. Hotels.

The following standards apply to hotels outside of the CBD District:

- (a) Minimum acreage is two acres.
- (b) All extended stay facilities shall have a minimum density of 75 guests per gross acre of development.
- (c) Guestrooms shall be accessed internally to the building with no direct room access to the outside. The lobby shall be a minimum of 500 square feet in size.
- (d) No room shall be accessed from the exterior of the building unless required by fire/safety regulations.
- (e) All guest rooms, which have facilities for both the storage and preparation of food and have less than 300 square feet of floor area are limited to a maximum of two persons per such room. However, for all such guest rooms



Illustrative example of a hotel with guestrooms that are accessed internally to the building.

greater than 300 square feet, one additional person shall be allowable per each additional 75 square feet of floor area up to and including a maximum of four persons.

- (f) No more than 10 percent of individual guests shall register, reside or occupy any room or rooms within the same licensed facility for a period of more than 180 days.
- (g) No license shall be issued for the conduct of any business from any guestroom of the facility.
- (h) Each hotel must provide management on duty 24 hours a day.
- (i) No hotel or motel existing at the time of adoption of this Development Code is to be converted to or used as apartment or condominium without approval of the City Council with special use approval. Any hotel or motel converted to such use must meet all applicable state and local codes including zoning standards.
- (j) Each guest room having a stove-top unit or other type burner shall be required to also include a maximum 60 minute automatic power off timer for each such unit.
- (k) A hard-wired smoke detector with battery backup and automatic sprinkler system shall be provided and installed in each guestroom.
- (l) No outside storage or permanent parking of equipment or vehicles shall be allowed.
- (m) All such facilities shall provide a 50-foot opaque undisturbed buffer from any property zoned for multi-family residential and/or 70-foot opaque undisturbed buffer from any property zoned for single family residential purposes.
- (n) All buildings shall have a minimum roof pitch of a four in twelve as defined by applicable building code.
- (o) A single meeting or conference space of 1,000 square feet or greater, or a business center, shall be provided on the premises.
- (p) A swimming pool or a fitness center shall be provided on the premises.
- (q) At a minimum, provisions for weekly cleaning for each suite must be provided.
- (r) A landscaping plan is to be approved by the Planning and Development Director.

Section 328. Junk Yards.

- (a) The junk yard shall be located no closer than 300 feet to a residential or commercial district boundary line.
- (b) The junk yard shall be completely enclosed with a solid fence not projecting into the required front yard, not less than 6 feet high, and in no case shall said fence be less than sufficient to screen such operation from view.

Section 329. Kennel.

- (a) No portion of a building, structure, outdoor run or pen used to house or exercise such animals shall be located within 200 feet to any property line.
- (b) No portion of the facility functioning as a sleep, play or exercise area for any animal shall be within 250 feet of any residentially zoned property.

- (c) The applicant shall submit for approval a detailed Sanitation and Maintenance Manual detailing tasks such as animal waste cleanup and sanitization to be used in the day-to-day operation of the facility.
- (d) Material Safety Data Sheets (MSDS) for all cleaning agents outlined in the required Sanitation and Maintenance Manual should be submitted to and approved by the City of Duluth Planning and Development Department.
- (e) All outdoor animal facilities shall be surrounded by a continuous opaque fence at least 8 feet in height.
- (f) No open-air animal areas shall be visible from any public roadway.
- (g) On-site veterinary care of the resident animals may occur only as an emergency or ancillary use. Examples of acceptable on-site veterinary care include emergency diagnosis and/or treatment performed by an "on-call veterinarian" or ancillary veterinary services such as on-site vaccinations. At no time shall the scope of the ancillary veterinary services use exceed the scope of the primary kennel use.
- (h) Retail and grooming are allowed as ancillary uses as long as the scope of said uses does not exceed the scope of the primary use of a kennel.
- (i) An additional setback of 25 feet on either side and 25 feet in the rear is required for all kennels with outdoor animal facilities.

Section 330. Manufactured Homes.

330.01 Manufactured Home Standards.

- (a) All manufactured homes must be constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974. Mobile homes, as defined in this Development Code, are considered to be constructed to pre-HUD standards and are not allowed to be installed in the City of Duluth. Any existing mobile home that is removed with the intent of replacing with another shall comply with this Development Code.
- (b) Each manufactured home shall be attached to a permanent foundation.

330.02 Manufactured Home Park Standards.

- (a) A manufactured housing district development shall front for a sufficient distance to provide safe access upon a state highway, a major thoroughfare, a collector street or a local access road paralleling an expressway and shall have access and egress only on such road.
- (b) The entrance road to a manufactured housing district development shall have a minimum right-of-way width of 60 feet with a minimum pavement width of 28 feet. The entrance road shall have a turning radius from the highway of at least 300 feet and the entrance road shall extend at least 100 feet into the manufactured housing district development.
- (c) Sidewalks shall be constructed within the development, and shall extend the entire frontage of the property on which the entrance is constructed. These shall provide access to recreation facilities within and outside the development.
- (d) Each manufactured home shall be located on a separate lot. Each home and lot shall be owned by the same person, and shall be taxed as real property and the owner shall qualify for the homestead exemption. Each lot shall be a minimum of 5,000 square feet and shall contain only one living dwelling.

- (e) Not less than 10% of the gross area of manufactured housing district development shall be devoted to recreation on any other community use facilities. Each recreation space shall have a minimum area of 10,000 square feet. Recreation area(s) may not be located within un-developable land (i.e., floodplain, wetlands, etc.)
- (f) A buffer strip at least 25 feet wide shall be provided along the side and rear property lines but not extending into the required front yard of the development. The buffer strip shall be planted with evergreen trees and shrubs that grow at least 8 feet tall and provide an effective visual screen. Said buffer strip is to provide a softening between the land uses.
- (g) Manufactured homes shall be installed in accordance with the State of Georgia's Rules and Regulations of the Office of Commissioner of Insurance Safety Fire Division, Chapter 120-3-7 Rules and Regulations for Manufactured Homes.
- (h) No site construction shall be undertaken and no permits shall be issued until a Preliminary Subdivision Plat that meets the requirements of the Permits and Procedures Article of this Development Code and the requirements of this Section 330 have been given tentative approval.

Section 331. Manufacturing, Wholesaling and Warehousing.

Special use approval is required for manufacturing, wholesaling and warehousing businesses that exceed 3,500 square feet in the CBD zoning district.

Section 332. Massage Therapy Establishments.

- (a) A 150-foot buffer shall be required between any massage therapy business to any residentially zoned property from the front door of the structure where the massage business occurs to the nearest parcel boundary line of any residentially zoned property as measured by a straight line on the ground. Should this buffer requirement differ from what is contained in the City of Duluth Massage Therapy Ordinance in the City of Duluth Code of Ordinances, the requirement in the Massage Therapy Ordinance shall apply.
- (b) A massage therapy business shall be subject to all other rules and requirements of the City of Duluth Massage Therapy Ordinance in the City of Duluth Code of Ordinances and all current and future pertinent local, state, and federal ordinances.

Section 333. Mini-Warehouses and Self-Storage Units.

- (a) Units shall be directly accessed from enclosed corridors.
- (b) Individual storage bays within a self-service storage facility shall not be considered a premise for the purpose of assigning a legal address in order to obtain an occupational license or any other governmental permit or licenses to do business.

- (c) All property stored on site shall be entirely within enclosed buildings. Storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is prohibited.
- (d) Uses not related to the temporary storage of personal property are prohibited, including use as a residence, office, workshop (including vehicle, appliance or equipment repair), studio, band rehearsal area or place of business.
- (e) No commercial transactions shall be permitted (including auctions; commercial, retail or wholesale sales; or miscellaneous or garage sales) other than the rental of the storage units.
- (f) The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or similar equipment is prohibited.
- (g) A 150-foot buffer shall be required between any mini-warehouse building or self-storage unit to any residentially zoned property measured from the nearest structure of the mini-warehouse or self-storage business to the nearest parcel boundary line of any residential property as measured by a straight line on the ground.
- (h) Loading bays shall not face street frontage.



Illustrative example of self-storage units that are directly accessed from enclosed corridors.

Section 334. Motor Vehicle and Parts Dealers.

- (a) Paved surfaces shall be provided to avoid the health hazards of dust and standing water.
- (b) All vehicles on the rental/sales lots shall be in operating condition at all times.
- (c) All parking and loading areas, including rental/sales lots that store and display motor vehicles, shall be screened from the road with a 3 foot high landscaped berm (maximum 2:1 slope) and a 10 foot landscape strip in accordance with the standards of the Landscaping, Buffers and Tree Protection Article of this Development Code. See also the Parking Lot Design, Screening, and Location Section in the Parking and Loading Requirements Article of this Development Code.

Section 335. Pawnshop.

A property containing a pawn shop shall be a minimum of 500 feet away from any other properties containing a pawn shop.

Section 336. Personal Care Home.

- (a) Each personal care home shall be at least 500 feet, in all directions, from any other personal care home.
- (b) When dealing with adults, all personal care homes shall obtain a permit from the State of Georgia and shall abide by the State of Georgia rules and regulations for personal care homes. When dealing with adolescents, said facilities shall be reviewed by and obtain a permit from the Department of Human Resources Youth Services Division.

- (c) In addition to the standards above, the following requirement shall apply to group personal care homes in the O-N zoning district:
 - (1) One parking space per four beds shall be provided; and
 - (2) The facility shall be 1,000 feet from any daycare facility, school or place of worship as measured from property line to property line.

Section 337. Radio and Television Broadcasting Stations.

Special use approval is required for stations that exceed 3,500 square feet in the CBD zoning district.

Section 338. Retail Trade.

Special use approval is required for retail trade businesses that exceed 3,500 square feet in the CBD zoning district.

Section 339. Tattoo and Body Piercing Establishments.

- (a) A tattoo and body piercing establishment shall be located no closer than 600 feet from any tract or parcel of land which is zoned RA-200, R-100, or located within 600 feet of any residential portion of any tract of land which is zoned PUD. In addition, no tattoo and body piercing establishment shall be located within 600 feet of any property located within the Historic Residential District or the Central Business District.
- (b) A tattoo and body piercing establishment shall be located no closer than 100 feet from any tract or parcel of land upon which is located an establishment which is licensed and authorized to sell alcoholic beverages within the City of Duluth.
- (c) A tattoo and body piercing establishment shall be subject to the rules and requirements of the City of Duluth Tattoo and Body Piercing Establishment Ordinance in the City of Duluth Code of Ordinances and all other current and future pertinent local, state, and federal ordinances.
- (d) Where the setback requirements of this Section and the Tattoo and Body Piercing Establishment Ordinance conflict, the setback requirements of the Tattoo and Body Piercing Establishment Ordinance shall apply.

Section 340. Temporary Buildings.

- (a) A temporary building or buildings for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period.
- (b) A Temporary Use Permit may be granted for the use of manufactured homes/recreational vehicles for emergency housing in any zoning district where a conforming structure is rendered uninhabitable by fire, tornado, hurricane, flood or other natural disaster by the Planning and Development Director for a period not to exceed 60 days.
- (1) Said permit may be extended for one year from the date of approval or for a shorter period as specified by the City Council. The City Council may impose reasonable conditions, restrictions, and safeguards as considered necessary. Violations of these conditions shall be considered a violation of this Development Code.

- (2) The Temporary Use Permit may be extended upon proper application when a hardship or unusual circumstances warranting the original permit remains and is verified. A change in the original circumstance shall require re-application for a Temporary Use Permit.
- (3) The Temporary Use Permit may be granted to the property owner and it shall not remain in effect in the event of a change of ownership of any land, structure, use or other item covered by the Temporary Use Permit. A Temporary Use Permit may be granted upon application and public hearing requirements as stated in the Procedures and Permits Article of this Development Code.

Section 341. Temporary Events.

341.01 General Requirements for Temporary Events, not Including Yard Sales.

(a) Permit Required.

- (1) A temporary use permit shall be applied for and approved by the Department of Planning and Development. Written permission of the property owner shall be provided with the application.
- (2) The temporary use may be permitted for a period not to exceed 20 days unless specifically provided for with the use, and with the exception that one, 10-day extension may be granted by the Planning and Development Director for uses in the C-1 and HC Districts.
- (3) A permit for any temporary use on the same property may not be applied for or renewed for a period of not less than six 6 months from the date of any prior approval of a temporary use.

(b) Location.

The temporary use shall not be located within 20 feet of the public right-of-way or within 30 feet of any intersection of two or more public rights-of-way.

(c) Parking.

Adequate parking ingress and egress shall be provided onsite, or on an adjacent site with written permission of the property owner.

(d) Signs.

See the Sign Regulations Article of this Development Code.

341.01 Carnival Rides.

- (a) Carnival rides may not operate for more than 15 consecutive days.
- (b) No structure or equipment may be located within 500 feet of any residential property line.

341.02 Charitable or Non-Profit Event.

Charitable or non-profit events, including religious assemblies, shall not exceed four consecutive days in duration.

341.01 Outdoor Markets and Swap Meets.

- (a) Outdoor markets, flea markets and craft shows may be permitted on a property for the retail sale or exchange of new, handcrafted, or second-hand merchandise for a maximum period of 48 hours, conducted by a single sponsor no more often than twice in any year.

- (b) Outdoor farmers' markets (includes roadside stands) may be permitted for the retail sale of produce, breads, meat and poultry, specialty foods and small cooking items and crafts for a maximum period of 48 hours, conducted no more than once a week.
- (c) Indoor swap meets and farmers' markets are allowed within a fully enclosed building where otherwise allowed as a commercial use, without restriction as to hours or frequency.

341.02 Retail Sales of Seasonal Items.

- (a) Retail sales of seasonal items (e.g. pumpkins, gourds and other Halloween or fall items; Christmas Trees) are allowed in commercial zoning districts on the same lot between October 1 and December 31.
- (b) Retail sales of summer refreshments ("summer refreshment stands") are allowed in commercial zoning districts between May 15 and September 14.

341.03 Temporary Event: Yard Sale.

- (a) Permit Required.

- (1) Any person desiring to hold a yard sale shall obtain a complimentary permit from the Planning and Development Director. The application for the permit shall set forth the name and address of the person who will be conducting the yard sale, the address where the same is to be located, and the date upon which the yard sale will be conducted. The Planning and Development Director shall furnish such person with a copy of this Section 341.03 at the time of obtaining the yard sale permit.
- (2) In the case of a neighborhood yard sale, one of the persons who will participate in the neighborhood yard sale shall make application for the complimentary permit and shall set forth the name and address of the applicant; the address where the sale is to be held; the date or dates on which the neighborhood yard sale is to be held and the names and addresses of all other persons who plan to participate in the sale.
- (3) The permit shall be obtained at least five days prior to the commencement date of the yard sale. Applicant shall specify an alternate date (rain date) for such yard sale in the event the proposed sale cannot be held on the first selected date because of inclement weather.

- (b) Frequency and Duration.

No person may hold a yard sale at the same location more frequently than once each 90 days and such sale shall not be for a period of time greater than 48 hours.

- (c) Duties of Planning and Development Director.

The Planning and Development Director shall:

- (1) Maintain application forms and complimentary permits to be issued for yard sales.
- (2) Furnish to the City of Duluth Police Department a copy of all yard sale permits as and when the permits are issued.
- (3) Maintain a record of all permits issued which record of permits issued for yard sale shall be maintained for the space of at least 18 months.
- (4) Before issuing any yard sale permit, check the listing record of previous permits issued to be certain that a requested permit is not being requested more frequently than permitted under the terms of this Section 341.03 and if such requested permit is for a date or time by the

same applicant or at an address where a previous yard sale has been held less than 90 days prior to the date of the proposed sale, the Planning and Development Director shall have the authority to refuse to issue the permit.

(d) Display of Permit.

The permit issued to any applicant for a yard sale shall be publicly displayed by the applicant during the time that the yard sale is being held or shall be available for inspection by a City of Duluth police officer upon demand.

(e) Temporary Signs.

See the Sign Regulations Article of this Development Code.

(f) Termination of Sales without Permit.

City Council hereby grants authority to the Chief of Police and police officers to order the immediate termination of any yard sale being conducted without a valid permit being issued pursuant to the terms of this Section 341.03. Any person who refuses to obey the order of the chief of police or other lawful officer of the City and immediately cease and terminate said yard sale and remove the public display of goods from their yard shall be subject to arrest for the charge of failing to obey a lawful order of a police officer and be subject to all the penalties for the violation of the City of Duluth Code of Ordinances. The charge provided for in this Section is in addition to any other charges that may be brought against such individual conducting a yard sale in violation of the terms of Section 341.03.

Section 342. Veterinary Clinics, including Animal Hospitals.

- (a) All activities associated with animal hospital/veterinary clinic operations shall be conducted within a completely enclosed building.
- (b) Non-medically necessary boarding/kennel operations may occur as an ancillary use only. Any outdoor facilities (e.g. "outdoor runs") shall be subject to those in Section 329.

Section 343. Wireless Telecommunications.

343.01 Intent.

This Code Section is designed and intended to balance the interests of the residents of the City of Duluth, telecommunications providers, and telecommunications customers in the siting of wireless facilities and support structures within the City of Duluth so as to protect the health, safety and integrity of residential neighborhoods and foster, through appropriate zoning and land use controls, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote the City of Duluth as a proactive city in the availability of wireless telecommunications service.

343.02 Purposes.

- (a) Provide for the appropriate location and development of wireless facilities and support structures to serve the residents and businesses of the City of Duluth
- (b) Protect the City of Duluth's built and natural environment by promoting compatible design standards for wireless facilities and support structures.
- (c) Minimize adverse visual impacts of wireless facilities and support structures through careful design, siting, landscape screening and innovative camouflaging techniques.

- (d) Avoid potential damage to adjacent properties from wireless facility and support structure failure through engineering and careful siting of wireless facilities and support structures.
- (e) Maximize use of any new and existing wireless support structures (towers) so as to minimize the need to construct new towers and minimize the total number of towers throughout the City.
- (f) Maximize and encourage use of alternative telecommunication tower structures as a primary option rather than construction of additional single-use towers.
- (g) Encourage and promote the location of new wireless facilities and support structures in areas which are not zoned for residential use.

343.03 Exemptions.

The following shall be exempt from this Code Section:

- (a) Any wireless facilities and support structures under 70 feet in total height and owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
- (b) Any wireless facilities or support structures located on property owned, leased or otherwise controlled by the City of Duluth, provided a license or lease authorizing a wireless telecommunications facility has been approved by the governing body.
- (c) Any wireless facilities and support structures for which a permit has been properly issued prior to the effective date of this Code (and is current and not expired), with the exception that any modifications or collocation proposed after issuance of the initial permit shall be reviewed and processed in accordance with this Code Section.

343.04 Collocation; Availability of Suitable Existing Structures.

No new wireless support structure (tower) shall be allowed unless the applicant demonstrates to the satisfaction of the Planning and Development Department and the City Council that no existing tower or existing alternative tower structure (clock towers, bell towers, church steeples, light/power poles, electric transmission towers, manmade trees, and similar natural or manmade alternative-design mounting structures that camouflage or conceal the presence of antennas or towers) can accommodate the applicant's proposed wireless facilities. All evidence submitted shall be signed and sealed by appropriate licensed professionals or qualified industry experts. Evidence submitted to demonstrate that no existing tower or structure can accommodate the proposed antenna shall consist of the following:

- (a) That no existing towers or suitable alternative tower structures are located within the geographic antennas placement area required to meet the applicant's engineering requirements.
- (b) That existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.



Illustrative example of multiple wireless facilities on a single tower (co-location).

- (c) That existing towers or structures do not have sufficient structural strength to support the applicant's antenna and related equipment.
- (d) That the applicant's proposed antenna(s) would cause electromagnetic interference with the antenna(s) on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) That the cost or contractual provisions required by the tower owner to share an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (f) That the applicant adequately demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

343.05 Allowed Zoning Districts.

- (a) If it is adequately demonstrated that antenna collocation, as required in Sec. 343.03(c), is not possible for a given geographic antenna placement area, constructing a new tower, including placement of additional buildings or other supporting equipment used in connection with said tower or antenna, may be allowed in the following zoning districts upon Special Use approval by City Council: M-1, M-2, C-1, C-2, HC-Retail, HC-Auto, PUD, O-I and RA-200.
- (b) Collocation, as described in Section Sec. 343.03(c), shall be allowed in the following zoning districts: M-1, M-2, C-1, C-2, HC-Retail, HC-Auto, PUD, O-I and RA-200.

343.06 Principal, Accessory and Joint Uses.

- (a) 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.
- (b) Towers may be located on sites containing another principal use in the same buildable area. 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.
- (c) Placement of more than one tower on a lot shall be permitted, provided requirement Sec. 343.07(h)(5) is met along with all setback, design and landscape requirements 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.

343.07 General Requirements.

The requirements set forth in this Code Section shall govern the location and construction of all wireless facilities and support structures governed by this Code.

- (a) **Building Codes and Safety Standards.** To ensure the structural integrity of wireless facilities and support structures, the owner of such a facility and structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such wireless facilities and support structures are published by the FCC as amended from time to time. The owner shall also conduct periodic inspec-

tions of such facilities at least once every three years to ensure structural integrity. Inspections shall be conducted by a Georgia licensed structural engineer. The results of such inspection shall be provided to the Planning and Development Director.

- (b) **Regulatory Compliance.** All wireless facilities and support structures must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate wireless facilities and structures. If such standards and regulations are changed then the owners of the facilities and structures governed by this Code Section shall bring such communications facilities and structures into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.
- (c) **Security.** All wireless support structures shall be enclosed by decay-resistant security fencing not less than 6 feet in height and shall be equipped with an appropriate anti-climbing device. This requirement may be waived by the Planning and Development Director if it is deemed that this would produce negative visual clutter or obstruct a view corridor.
- (d) **Lighting.** No illumination is permitted on wireless facilities or support structures unless part of an approved public lighting program or required by the FCC, FAA or other state or federal agency of competent jurisdiction in which case the Planning and Development Director may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.
- (e) **Advertising.** No advertising is permitted on wireless facilities or support structures.
- (f) **Visual Impact.**
 - (1) Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district as much as possible. Towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical (i.e. camouflaging through integration with structures or appearance such as artificial trees, etc.).
 - (2) Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.
 - (3) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment (i.e. artificial tree appearance, steeples, decorative fencing, etc.).
 - (4) 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 and is generally visible to the public, 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. Roof mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.
- (6) Antennas mounted on architecturally significant structures or significant architectural details of the building shall be covered by appropriate casings that are manufactured to match existing architectural features found on the building.
- (7) Where feasible, antennas can be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.
- (8) Towers or roof mounted antennas shall not be placed in direct line with significant view corridors, as designated by the City of Duluth or by any state or federal law or agency. For purposes of this Code Section a significant view corridor shall be defined as an area to be kept free of obstructions or structures that interfere with the view of any scenic area, historic building or area. A view corridor shall be established by ordinance of the City of Duluth by zoning restrictions adopted in accordance with the ordinances of the City of Duluth, or by any state or federal law or agency in accordance with provisions of federal laws or duly adopted regulations.
- (9) Any equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. Equipment compounds shall be screened from public view and may use landscaping or materials and colors consistent with the surrounding structures. The shelter or cabinet must be regularly maintained.

(g) Landscaping.

- (1) Landscaping shall be used to effectively screen the view of the equipment compound from adjacent public ways, public property and residential property.
- (2) Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed and vegetation to be replanted.
- (3) The Planning and Development Director may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes or for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived by the Planning and Development Director.

(h) Lot Size and Setbacks.

The site shall be of a size and shape sufficient to provide an adequate setback from the base of the tower to any property line abutting a residential district, public property, or public street. Such setback shall be sufficient to:

- (1) Provide for an adequate vegetative, topographic or other buffer as required in Section 343.07(g).

- (2) Preserve the privacy of surrounding residential property.
- (3) Protect adjoining property from the potential impact of tower failure by being large enough to accommodate such failure on the site, based on the required engineer's analysis.
- (4) When a tower is adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
- (5) Towers greater than 70 feet in height shall not be located any closer than 1,500 feet from an existing tower unless technologically required or visually preferable as determined by the City Council through a Special Use approval request.
- (6) Setbacks for towers 70 feet and less shall not be closer to a residential structure than the height of the tower or closer to a residential property line than 40 feet.

343.08 Special Use Approval.

- (a) Special use approval shall be required to:
 - (1) Construct a new tower in an allowed district identified in Sec. 343.05; or
 - (2) Modify or accept a collocation to a previously approved wireless facility or support structure (tower) when the proposed modification of collocation:
 - a. Increases the overall height or width of the support structure to which the wireless facilities are to be attached; or
 - b. Increases the dimensions of the equipment compound that was initially approved by the City.
- (b) Application. In addition to the special use review and approval requirements found in the Procedures and Permits Article of this Development Code, the following process shall apply:
 - (1) An application shall be submitted that includes the following information:
 - a. Site plan(s) to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas and adjacent land uses.
 - b. Landscape plan to scale indicating size, spacing and type of plantings required in this Code Section.
 - c. An impact statement fully describing the effects that the proposed telecommunications facility will have on the environment and surrounding area including the impacts on adjacent residential structures and districts, impacts on structures and sites of historic significance and impacts on streetscapes and significant view corridors. The Impact Statement shall include a description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs and traffic noise or safety impacts of such maintenance.
 - d. Report from a professional structural engineer licensed in the State of Georgia, documenting the following:
 1. Telecommunications facility height and design, including technical, engineering, economic and other pertinent factors governing selection of the proposed design.

2. Total anticipated capacity of the telecommunications facility, including number and types of antennae which can be accommodated. Evidence shall be provided that indicates capacity is sufficient to allow future wireless facilities (collocation).
 3. Evidence of structural integrity of the tower structure (i.e. engineer's statement that structure is built to meet or exceed Standard Building Code).
 4. Structural failure characteristics of the telecommunications tower(s) over 70 feet and demonstration that site and setbacks are of adequate size to contain debris.
 5. 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.
- e. The identity of a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.
 - f. The existing towers and tall structures located within the geographic service area should be identified on a map along with written justification as to the need for a new tower in place of an existing structures
 - g. A map indicating all existing tower and antennae sites located within Duluth and within 2 miles of the city boundaries.
- (c) Review Period.
- (1) Within 150 calendar days of the date an application for special use approval is filed with the Planning and Development Department, unless another date is specified in a written agreement between the Department and the applicant, the City shall:
 - a. Make its final decision to approve or disapprove the application; and
 - b. Advise the applicant in writing of its final decision.
 - (2) Within 30 calendar days of the date an application for special use approval is filed with the Planning and Development Department, the Planning and Development Director shall determine if it is a complete application and, if he or she determines the application is not a complete application, notify the applicant in writing of any information required to complete such application.
 - (3) To the extent additional information is required to complete the application, the time required by the applicant to provide such information shall not be counted toward the calendar day review period set forth in Sec. 343.08(c)(1) above.

343.09 Administrative Review.

- (a) Uses Allowed by Administrative Approval.
- (1) Modification or Collocation, Wireless Facility or Support Structure.

A proposed modification or collocation to a previously approved wireless facility or support structure, with the exception of proposals meeting the criteria of Sec. 343.09(a)(2) below, may be approved by the Planning and Development Department after conducting an administrative review if the proposed modification or collocation does not increase the overall height or width of the support structure to which the wireless facilities are to be attached or increase the dimensions of the equipment compound that was initially approved by the City.

a. Review Period.

1. Within 90 calendar days of the date an application for a modification or collocation meeting the criteria of Sec. 343.09(a) is filed with the Planning and Development Department, unless another date is specified in a written agreement between the Department and the applicant, the City shall make its final decision to approve or disapprove the application and advise the applicant in writing of its final decision.
2. Within 30 calendar days of the date an application for modification or collocation meeting the criteria of Sec. 343.09(a) is filed with the Planning and Development Department, the Planning and Development Director shall determine if it is a complete application and, if he or she determines the application is not a complete application, notify the applicant in writing of any information required to complete such application.
3. To the extent additional information is required to complete the application, the time required by the applicant to provide such information shall not be counted toward the 90-calendar day review period set forth above.

(2) Modification, Base Station or Tower.

For a proposed modification of an existing base station or tower that does not “substantially change”, as defined in the Interpretation and Definitions Article of this Development Code, the physical dimensions of such tower or base station, the process outlined below shall apply.

- a. Within 60 days of the date on which an applicant submits a request seeking approval under this Section, the Planning and Development Director shall approve the application unless it determines that the application is not covered by this subsection.
- b. The 60-day period begins to run when the application is filed, and may be tolled only by mutual agreement or in cases where the Planning and Development Department determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
- c. To toll the timeframe for incompleteness, the Planning and Development Department must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information does not require documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.
- d. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Planning and Development Department’s notice of incompleteness.
- e. Following a supplemental submission, Planning and Development Department will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection (2) above. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

343.10 Maintenance Impacts.

Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector and to a local street, access for maintenance vehicles shall be exclusively by means of the collector street. Access drives and maintenance vehicle parking shall be paved unless the requirement is waived by the Planning and Development Director.

343.11 Nuisances.

Telecommunications facilities, including; (without limitation), power source, ventilation and cooling, shall be operated at all times within the limits of the City of Duluth Noise Ordinance, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

343.12 Removal of Antennae and Towers.

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the Planning and Development Director or his designee any such telecommunications facility is determined not to comply with the minimum Standard Building Code or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owners shall have 30 days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within 30 days, the City may provide notice to the owners requiring the telecommunications facility to be removed. In the event such telecommunications facility is not removed within 30 days of receipt of such notice, the City may remove such facility and place a lien upon the property for the costs of removal or seek costs incurred through court action. Delay by the City in taking action shall not in any way waive the City's right to take action. The City may pursue all legal remedies available to it to insure that telecommunications facilities not in compliance with the minimum Standard Building Code standards or which constitute a danger to persons or property are brought into compliance or removed. The City may seek to have the telecommunications facility removed regardless of the owners or operators intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

343.13 Abandoned Towers.

- (a) Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the City notifying the owner(s) of such abandonment, the City may remove such tower and/or antenna and place a lien upon the property for any removal cost(s) incurred or seek costs incurred through court action. The City may pursue all legal remedies available to it to insure that abandoned telecommunications facilities 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 telecommunications facility removed regardless of the owners or operators intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

- (b) 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 Article as if such tower or antenna were a new tower or antenna.

343.14 Small Cell Wireless Facility

(a) Intent

- (1) This Code Section is designed to implement the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. Title 36, Chapter 66C. The provisions address placement of small cell facilities and associated poles in the public rights of way. The GMA's Model Right of Way Ordinance, available to local governments in the GMA Telecommunications and Right of Way Management program, addresses other conditions regarding the access and use of the right of way that are not specific to small cell facilities and associated poles.

(b) Purpose and Compliance

- (1) O.C.G.A. § 32-4-92(a)(10) authorizes the City of Duluth, Georgia (the "City") to 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 in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act., O.C.G.A. Title 36, Chapter 66C (the "SWFAA"), addresses the placement of small wireless facilities in the public rights of way of the City.
- (2) The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications reasonable conditions regarding placement of small wireless facilities, poles in the public 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 public rights of way and its uses in the City.
- (3) The objective of Section 343.14 is to (i) implement the SWFAA and (ii) ensure use of the public rights of way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

(c) Definitions

- (1) Unless defined within this Ordinance, terms used in Section 343.14 shall have the meanings given them in O.C.G.A. § 36-66C-2.
- (2) In the event that any federal or state law containing definitions used in Section 343.14 is amended, the definition in the referenced section, as amended, shall control.
- (3) Definitions in Section 343.14 include references and citations to applicable federal and state laws. In the event that any referenced section is amended, the definition in the referenced section, as amended, shall control.

(d) Permits

- (1) A permit is required to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).

- (2) Any person seeking to collocate a small wireless facility in the public right of way or to install, modify, or replace a pole or a decorative pole in the public right of way shall submit an application to the Department of Planning and Development for a permit. Applications are available from the Department of Planning and Development. Any material change to information contained in an application shall be submitted in writing to the Department of Planning and Development within 30 days after the events necessitating the change.
- (3) Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).
- (4) The Department of Planning and Development shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.
- (5) Applications for permits shall be approved except as follows:
 - a. In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which:
 1. The applicant has the right to collocate subject to reasonable terms and conditions; and
 2. Such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.

The Department of Planning and Development may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).

For applications for new poles in the public right of way in areas zoned for residential use, the Department of Planning and Development may propose an alternate location in the public right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the Department of Planning and Development proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

- (6) A permit issued under Section 343.14(d) shall authorize such person to occupy the public rights of way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).
- (7) Upon the issuance of a permit under this Code, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights of way pursuant to O.C.G.A. § 36-

66C-5(e), then such person shall be responsible for the pro rata portion of the annual payment based on the number of days of occupation since the last annual payment. Upon making such pro rata payment and removal of the small wireless facilities, the person's annual payment obligations under this section shall cease as of the date of the actual removal. The maximum annual payments shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b).

- (8) Any person issued a permit shall pay the fees identified in O.C.G.A. § 36- 66C-5(a)(6) and (a)(7), as applicable.
- (9) The City may revoke a permit issued pursuant to Section 343.14(d) if the wireless provider or its equipment placed in the public right of way under that permit subsequently is not in compliance with any provision of this Code or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to Section 343.14(d)(10).
- (10) If a wireless provider occupies the public rights of way without obtaining a permit required by Section 343.14(d) or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under Section 343.14(d) until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
- (11) All accepted applications for permits shall be publically available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).
- (12) An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.
- (13) Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).
- (14) Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of 10 years.
- (15) Permits shall be renewed following the expiration of the term identified in Section 343.14(d)(14) upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).
- (16) If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights of way, then the City shall, within 60-days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

(e) Removal; Relocation; Reconditioning; Replacement; Abandonment

- (1) A person may remove its small wireless facilities from the public rights of according to the procedures of O.C.G.A. § 36-66C-5(e).
 - (2) In the event of a removal under Section 343.14(e)(1), the right of way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right of way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right of way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under Section 343.14(d) until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
 - (3) If, in the reasonable exercise of police powers, the City determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City may take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.
 - (4) The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).
 - (5) A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.
- (f) Standards
- (1) Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right of way as a permitted use: (i) upon a receipt of a permit under Section 343.14(d); (ii) subject to applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).
 - a. New, modified, or replacement poles installed in the right of way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.

- b. Each new, modified, or replacement pole installed in the right of way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:
 - 1. Fifty feet above ground level; or
 - 2. Ten feet greater in height above ground level than the tallest existing pole in the same public right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;
 - c. New small wireless facilities in the public right of way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.
 - d. New small wireless facilities in the public right of way collocated on a new or replacement pole under Section 343.14(f)(1)a or Section 343.14(f)(1)b may not extend above the top of such poles.
- (2) A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.
- (3) Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:
- a. Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure;
 - b. Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure, or be designed and placed to minimize visual impacts.
 - c. Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights of way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.
 - d. Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.
- (4) Notwithstanding any provision of this Code Section to the contrary, an applicant may collocate a small wireless facility within a historic district, and may place or replace a pole within a historic district, only upon satisfaction of the following: (i) issuance of a permit under Section 343.14(d) and (ii) compliance with applicable codes.
- (5) Notwithstanding any provision of this Code Section to the contrary, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following: (i) issuance of a permit under Section 343.14(d) and (ii) compliance with applicable codes.
- (g) Aesthetic Standards

(1) Authority and Scope

- a. O.C.G.A. § 32-4-92(a)(10) authorizes the City to 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 in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights of way.
- b. 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 public 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 public rights of way and its uses in the City.
- c. The objective of Section 343.14(g) is to ensure use of the public 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 residents' quality of life.
- d. Section 343.14(g) applies to all requests to locate facilities in the public rights of way and ongoing use of the public rights of way for such facilities. Section 343.14(g) is established pursuant to City Charter and applicable law. Section 343.14(g) is administered by the Department of Planning and Development.
- e. Placement or modification of facilities in the public 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.

(2) Facilities Standards

- a. 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.
- b. Facilities in the residential, historical, architecturally significant areas shall be visually and architecturally integrated with the residential, historical, architecturally significant areas and shall not interfere with prominent vistas or significant public view corridors.
- c. Facilities must be located in alignment with existing trees and/or facilities.
- d. Facilities must maintain the integrity and character of the neighborhoods and corridors in which the facilities are located.

(3) Undergrounding

Except as provided in Section 343.14(g)(3)a and Section 343.14(g)(3)b, facilities shall be installed underground so long as placement underground will not materially impact the provision of service. Any individual requesting to locate facilities above ground has the burden to demonstrate by clear and convincing evidence that undergrounding will effectively prohibit the provision of the service in question.

- a. Light poles and small wireless facilities collocated thereon may be located above ground in areas of the City where facilities are primarily located underground.
- b. The City may:
 1. Allow collocated small wireless facilities placed aboveground prior to the effective date of this Code and subject to any applicable pole attachment agreement to remain above ground; or
 2. Allow the wireless provider to replace the pole associated with previously collocated small wireless facilities at the same location or propose an alternate location within 50 feet of the prior location, which the wireless provider shall use unless such alternate location imposes technical limits or significant additional costs.

(4) Camouflaging

Facilities must be designed using camouflaging techniques that make them as unobtrusive as possible if:

- a. It is not possible or desirable to match the design and color of facilities with the similar facilities in the same zoning area, as required under Section 343.14(g)(2)a; or
- b. Existing facilities in the area are out of character with a streetscape plan or other aesthetic plan that has been adopted by the City.

(5) Installation and Modification Standards

Installation of new facilities in, on, along, over, or under the public rights of way or modification of existing facilities in, on, along, over, or under the public rights of way shall:

- a. Minimize risks to public safety;
- b. Ensure that placement of facilities on existing structures is within the tolerance of those structures;
- c. Ensure that installations and modifications are subject to periodic review to minimize the intrusion on the right of way;
- d. Ensure that the City bears no risk or liability as a result of the installations or modifications; and
- e. Ensure that use of the public rights of way does not inconvenience the public, interfere with the primary uses of the public 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 right of way.

(6) Plans for Use

No facilities shall be placed in, on, along, over, or under the public rights of way unless:

- a. There are immediate plans to use the proposed facility; or
- b. There is a contract with another party that has immediate plans to use the proposed facility.

(7) Contact Information

Every facility placed in the public 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 provides a local or toll-free telephone number to contact the facility owner's operations center.

DIVISION III. ACCESSORY USES AND STRUCTURES.

Section 344. Detached Structures.

Detached accessory structures and/or uses, with the exception of a detached automobile parking garage in a residentially zoned district, shall be limited in size to a total or combined gross square footage not to exceed 20 percent of the heated square footage of the principal structure, or 20 percent of square footage of the primary land use area, as shown on an "as built" survey.

Section 345. Home Occupations.

- (a) The home occupation shall be conducted entirely within a dwelling unit and only by occupants of the dwelling unit.
- (b) No outdoor storage is allowed.
- (c) One sign, no greater than 1 square foot in size, is allowed per dwelling unit.
- (d) No clients, patrons or employees (other than the resident) shall be allowed on the property.
- (e) Home occupation(s) shall be limited to no more than 25 percent of the total heated floor area of the residence or 500 square feet, whichever is less. An affidavit shall be signed by the practitioner at the time of application and shall include the proposed size of the home occupation in terms of square feet of proposed business area and square feet of total heated floor area.
- (f) The dwelling must be the legal residence of the principal practitioner at the time of the application and the home occupation shall be valid only as long as the original principal practitioner resides in the dwelling, is conducting business and has a current occupational tax certificate.
- (g) One business vehicle used exclusively by the resident is permitted. Panel trucks shall not be permitted. The business vehicle shall be no larger in size than a pick-up truck or van and not have a carrying capacity over one and one-half tons. The business vehicle shall not have business identification (signs) on it when it is parked at the premises and will not have any equipment used in the business left on the business vehicle in a manner that can be seen from the surrounding property. The business vehicle must be parked in a driveway, garage or carport. No trailers are allowed.
- (h) The conduct of the home occupation shall neither increase the normal flow of traffic nor shall it increase normal on-street or off-street parking.
- (i) No equipment may be utilized or stored in the conduct of the home occupation except that which is normally used for purely domestic or household purposes. Said items may only be



Illustrative example of signage that exceeds the maximum allowed size.

those used on the premises or incidental supplies necessary for and consumed in the conduct of the home occupation. Samples, however, may be kept on the premises but neither sold nor distributed from the residence.

- (j) Any additions or alterations that will be used for the home occupation must be of an architectural style in keeping with the surrounding residential development. Any and all work must be approved and permitted by the City of Duluth.
- (k) Offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects shall not be permitted.

Section 346. Farm Tenant Dwellings.

- (a) A farm tenant dwelling may be either a single-family detached or two-family site-built or modular building.
- (b) The dwelling shall meet the yard requirements of the zoning district in which it is located.
- (c) No more than one dwelling unit for each five acres of land devoted to active agricultural use is allowed.
- (d) The principal residence on the property, to which the farm tenant dwelling is accessory, must be occupied by the owner or the operator of the farm.
- (e) At least one adult occupant of each dwelling unit must be employed to work on the farm where the dwelling is located. Such employment must be for compensation or profit, or such employee must be a relative of the owner or a co-owner of the farm; in any case, one occupant must devote at least 20 hours a week on average in the farming operation.

Section 347. Outdoor Display Areas.

Merchandise or goods may be on display outdoors for the purpose of customer selection or direct sale or lease to customers only as follows in this Code Section.

347.01 Outdoor Display Areas; Permanent.

The following merchandise or goods may be located in outdoor display areas on a permanent basis (where the use is otherwise permitted) subject to the requirements of Section 347.03 below:

- (a) Motorized vehicles that are in good running condition free from exterior damage or substantial wear.
- (b) Manufactured homes.
- (c) Utility sheds, gazebos and play equipment.
- (d) Plant nursery items.
- (e) Vending machines, boxes or similar containers used to distribute food or beverage, newspapers, propane tanks, ice, videos or similar consumer products.

347.02 Temporary Sales Promotions.

All other outdoor display of merchandise or goods shall be conducted on a temporary basis associated with special business promotions. See Section 341 for restrictions on temporary events.

347.03 Outdoor Display Areas; Restrictions.

- (a) Merchandise or goods on display outdoors must be located at least 20 feet from any property line, with the exception that vending machines, boxes or similar containers described under 347.01 above shall be located against and parallel to the building facade.
- (b) The proposed display of propane cylinders is subject to review and approval by the Gwinnett County Fire Department.
- (c) Any area outside of a building where merchandise or goods are displayed for customer selection or direct sale but which is permanently screened by an opaque imitation-wood vinyl fence or free-standing wall at least 6 feet in height or a landscape buffer meeting the standards of the Landscaping, Buffers and Tree Protection Article of this Development Code shall not be considered an outdoor display area.

Section 348. Outdoor Storage.

The outdoor storage of goods, material or merchandise not otherwise on display for customer selection or direct sale or lease to customers, where the use is otherwise permitted, is limited as follows:

348.01 Outdoor Storage in Commercial Zoning Districts.

- (a) Outdoor storage is permitted in the C-2, HC-Auto, HC-Retail, and O-I Districts with special use approval only. All outdoor storage must be located in a side or rear yard and must be screened from public streets and residential districts by an opaque imitation-wood vinyl fence or free-standing wall no less than 8 feet in height or a landscape buffer meeting the standards of the Landscaping, Buffers and Tree Protection Article of this Development Code.
- (b) No required parking spaces, required landscaped area, or any other required site element shall be used for outdoor storage.

348.02 Outdoor Storage in the Industrial Zoning Districts.

Building material or other outdoor storage yards, except junk yards, are allowed in the M-1 and M-2 zoning districts if they meet the following requirements:

- (a) They shall not be located within a required front yard.
- (b) They shall be setback at least 25 feet from any side or rear property lines and shall be screened by a solid fence at least 6 feet high which is setback a similar distance from any side or rear property lines, appropriately landscaped and maintained per an approved site plan.
- (c) They shall be established in connection with a permitted building.
- (d) Additional restrictions apply to junk yards (see Section 328).

Section 349. Unattended Donation Boxes.

- (a) Size and Location.
 - (1) Unattended donation boxes shall only be allowed as an accessory use on a parcel where the primary use is a retail establishment involved in the resale of used, and second-hand goods.
 - (2) Unattended donation boxes shall not exceed 7 feet in height and 4 feet in width or depth.
 - (3) An unattended donation box shall not be placed:
 - a. Within 400 feet of another unattended donation box;

- b. On the same parcel as another unattended donation box; or
- c. On unoccupied or vacant property.
- d. On sidewalks.
- e. In a manner that impedes vehicular or pedestrian traffic flow and circulation.
- f. In the right-of-way.
- g. In the principal use setback for the site where they are placed.
- h. In designated parking spaces or reduce the number of parking spaces below the minimum number required by zoning codes.
- i. Within any landscape strip, landscaped parking lot island or any type of buffer.
- j. Within the Visibility Clearance Area, as defined in Section 604.08 of this Code

(b) Permit Requirements.

- (1) Unless otherwise exempted, it shall be unlawful and a public nuisance for any property owner or operator to place, operate, maintain or allow unattended donation boxes on real property unless the unattended donation box owner first obtains a permit pursuant to this Code Section and the unattended donation box is placed, operated and maintained in accordance with all provisions in this Code Section.
- (2) The permit application shall be made on a form provided by the City and shall include:
 - a. The name, address, e-mail, website (if available) and phone number of contact person of the applicant who will agree in writing to be available between the hours of 8:00 a.m. to 6:00 p.m. each day of the week to receive and respond to complaints or other inquiries regarding the permitted collection bin;
 - b. The Name, address, and telephone number of an individual who is authorized by the owner of the collection bin to accept service of process and to accept citations issued by the city on behalf of the applicant for violations of this section.
 - c. Collection bins owned and/or operated by one person or entity for the benefit of another person or entity require the contact information for both entities on the permit application;
 - d. If the applicant claims to be a qualified nonprofit organization:
 - 1. A copy of the determination letter issued by the Internal Revenue Service stating that the applicant is an organization exempt from taxation under Internal Revenue Code, 26 USC § 501(c)(3); and
 - 2. A certificate of good standing issued by the office of the secretary of state. If the applicant is a business organization not exempt from taxation, a certificate of good standing issued by the office of the secretary of state. A certificate of good standing must not be older than three months at the time of application for a permit.
 - e. Written and signed consent from the site host and the lawful occupant, if applicable, to place the collection bin on the property, including name, address and telephone number of the site host and the name, address, and telephone number of the person authorized by the site host to accept service of process and to accept citations issued by the city on

- behalf of the site host. The name, address, and telephone number of the lawful occupant and the name, address, and telephone number of the person authorized by the lawful occupant to accept service of process and to accept citations issued by the city on behalf of the lawful occupant shall also be included.
- f. The physical address of the property owner's real property and a drawing sufficient to indicate the proposed location of the unattended donation box on the property owner's real property, as well as the size of the proposed unattended donation box.
 - g. Permittee must provide proof to the city of a certificate of liability insurance of at least \$1,000,000.00 covering the liability of the permittee, site host, and lawful occupant, if applicable, arising out of the placement and maintenance of a collection bin.
- (3) Each application shall be accompanied by a nonrefundable fee not to exceed \$50. The fee shall be waived when evidence is submitted that the applicant has 501(c)3 status.
 - (4) Applications shall be filed with the Planning and Development Department.
 - (5) Action shall be taken on the permit within 30 days.
 - (6) Applications not meeting all standards of this Development Code or any other City of Duluth ordinance shall be denied. Denied applications may be resubmitted for review after 30 days.
 - (7) The permit shall expire one year from the date of issuance.
 - (8) Permits shall not be transferrable.
- (c) Requirements and Maintenance.
 - (1) Unattended donation boxes shall:
 - a. Be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;
 - b. Be locked or otherwise secured;
 - c. Be clear at all times of junk, garbage, trash, debris and other refuse material in the area surrounding the box. Any such materials shall be removed within 24 hours of verbal notice from the City at the expense of the property owner;
 - d. Shall display the following information in boldface letters at least two inches high located on the front of the box and directly underneath the deposit door:
 - 1. The name, address, telephone number, and the internet web address of the permittee, site host, and lawful occupant;
 - 2. Meet the requirements set forth by the State as found in O.C.G.A. §43-17, as amended, if applicable;
 - e. Have posted on them a copy of the permit in a prominent and visible location on the front of the box in plain view for inspection by the public and City officials; and
 - f. Be serviced and emptied as needed, but in no case less frequently than once per month or within five days of a request by the Planning and Development Department.
 - (2) Permittee must provide to the site host or lawful occupant a telephone number for requests to respond to collection bin maintenance complaints.

- (3) Permittee and site host or lawful occupant must respond to collection bin maintenance complaints within ten days of receiving written notice of a violation of this article. Written notice of the violation shall be provided to the permittee, site host or lawful occupant and any charitable organization identified as being associated with the collection bin.
- (4) If a collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.
- (d) Exemption.

Unattended donation boxes located entirely within the interior of a building are exempt from the requirements of this Code Section.

Section 350. Mobile Kitchens

The following standards shall apply to Mobile Kitchens:

- (a) Mobile Kitchens shall be allowed by Special Use approval in areas zoned CBD, C-1, C-2, HC-Retail and HC-Auto.
- (b) Mobile Kitchens must be integrated with a bar, brewpub, and/or restaurant that is legally in existence and meets all City, County, and State requirements.
- (c) Mobile Kitchens must be kept in an area that is enclosed on a minimum of three (3) sides by a minimum six (6) foot high structure attached to the primary building. Materials and design shall be approved by the Planning and Development Director.
- (d) All Mobile Kitchens must use utilities provided by the primary building that they are associated with. Portable generators are prohibited.

Article 4. Parking and Loading

Article 4 sets out the requirements and restrictions on the provision of automobile parking spaces for each development to accommodate its residents, employees, customers, and visitors, and for adequate truck parking to serve businesses and industry. The provisions of this Article apply equally to each designated use without regard to the zoning district in which it is located.

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Article 4. Parking and Loading

Section 401. Definitions.

See the Interpretations and Definitions Article of this Development Code for definitions related to parking and loading.

Section 402. Off-Street Automobile Parking and Loading and Unloading Spaces Required.

- (a) **Parking Required.** Off-street automobile parking, loading and unloading spaces shall be provided, as specified in this Article, for uses and structures hereafter established.
- (b) **Applicability.** This Article shall apply to any new building constructed; for new uses or conversions of existing, conforming buildings; and for enlargements of existing structures. This Article shall not be construed so as to require additional parking spaces to be furnished for an existing building which is repaired, altered, maintained, or modernized, where the size of the building is not increased; provided, however that when occupancy of any building is changed to another use, parking shall be provided to meet the requirements of this Article for the new use.
- (c) **Exemptions.** This Article shall not apply to restaurant and retail uses located in the Central Business District (CBD) zoning district.

Section 403. Plan and Design Standards for Off-Street Parking.

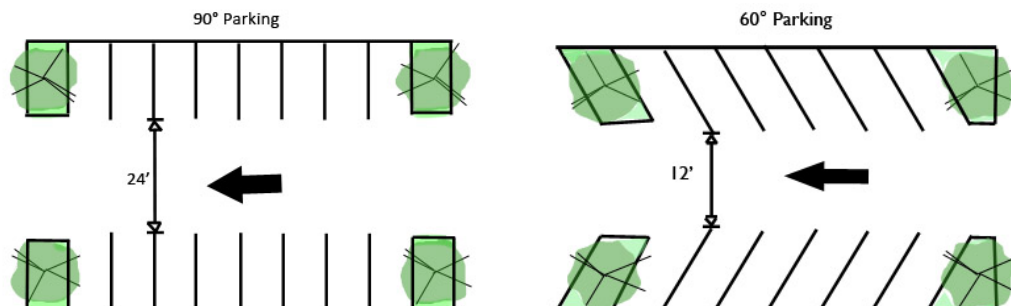
The following are required plan and design standards for off-street parking.

403.01 Required Area for Each Parking Space.

Each standard parking space shall be not less than 19 feet long and 9 feet wide. Compact spaces shall not be less than 17 feet long and 8 feet wide. No more than 20% of the spaces shall be compact spaces. Oversized Vehicles spaces and Off-Street Truck Parking spaces shall be not less than 35 feet long by 12 feet wide and have a minimum of 14 feet of vertical clearance. Adequate interior driveways shall connect each parking space with a public right-of-way. All vehicles, when parked, shall be parked within the boundaries of an approved and properly striped parking space. Double, tandem, stacked or other similar method of parking more than one (1) vehicle per space shall be prohibited.

403.02 Interior Driveways.

When used with 90 degree angle parking, shall be at least 24 feet wide. When used with 60 degree angle parking, shall be at least 12 feet wide with one-way traffic. When used with parallel parking or where there is no parking, shall be at least 10 feet wide for one-way traffic and at least 20 feet wide for two-way traffic. A minimum 10-foot driveway and stacking lane is required for any type drive-up window (this is in addition to regular driveways).



403.03 Surfacing, Drainage, and Maintenance.

- (a) All permanent required off-street parking and vehicle sales space shall be properly drained and surfaced. A proper surface shall consist of concrete, asphalt, or similar smooth material.
- (b) Off-street parking areas shall be maintained in proper repair, free of potholes, pavement separation or other surface or curbing deterioration, indistinguishable striping or directional arrows where required, and missing but required signage and indistinguishable handicapped space designations.

403.04 Lighting of Parking Areas.

See the Outdoor Lighting Section in the Restrictions on Particular Uses Article of this Development Code.

403.05 Stacking Spaces for Drive-Through Facilities.

- (a) Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pickup areas, including the following uses:
 - (1) Financial institutions with drive-through windows;
 - (2) Restaurants with drive-through facilities;
 - (3) Carwashes (automated or staffed facilities);
 - (4) Drive-through coffee sales facilities; and
 - (5) Any other uses with drive-through facilities.
- (b) The following general standards shall apply to all stacking spaces and drive-through facilities:
 - (1) A minimum of three stacking spaces for each window or drive-through service facility shall be provided.
 - (2) Stacking spaces shall begin at the window or at the communication/mechanical device (e.g., order board) first encountered by the vehicle user.
 - (3) Stacking spaces and lanes for drive-through stations shall not impede on- and off-site traffic movements, shall not cross or pass through off street parking areas, and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.
 - (4) Drive-through lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
 - (5) All drive-through facilities shall be provided with a bypass lane with a minimum width of 10 feet.



Illustrative example of drive-through lanes that are separated from parking areas and have an adjacent bypass lane.

403.06 Location of Required Off-Street Parking Spaces on Other Property.

If the required automobile off-street parking spaces cannot reasonably be provided on the same lot on which the principal use is located, such spaces may be provided on other off-street property lying not more than 400 feet from the main entrance to the principal use. In this situation, the applicant shall submit with his application for a building permit or a certificate of occupancy an instrument duly executed and acknowledged, that accepts as a condition for the issuance of a building permit or a certificate of occupancy the permanent availability of such off-street parking spaces to serve the principal use.

403.07 Shared Parking.

The parking spaces provided for separate uses may be combined in one parking lot, but the required spaces assigned to each use may not be assigned to another use, except as follows:

(a) Shared Parking Between Day and Night Users.

One-half of the off-street parking spaces required by a use whose peak attendance will be at night may be shared with a use that will be closed at night or on Sunday.

(b) Mixed Use Developments.

Parking spaces may be shared by more than one use if the Planning and Development Director finds that the total number of spaces will be adequate at the peak hours of the uses they serve. The ratios on Table 4-A may be used in determining the time of day and the day of the week at which the maximum number of spaces will be needed by the uses served by the shared parking facility.

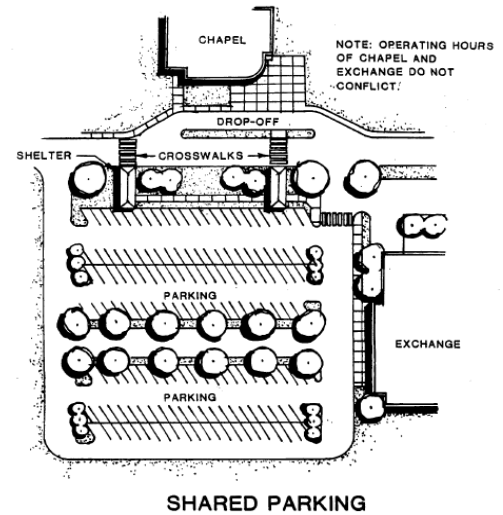


Table 4-A: Percentage of Required Parking Spaces by Time Period

Type of Use	Weekdays		Weekends		Nighttime
	6 am to 5	5pm to 1	6 am to 5 pm	5pm to 1	1am to 6 am
Office	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Entertainment/Recreation	40%	100%	80%	100%	10%
Religious Facility	10%	25%	100%	100%	10%

By way of example, the following illustrates shared parking calculations for a particular mixed-use development:

Example:

Spaces needed for uses in a mixed-use project, calculated individually:

	Factor	for	Spaces
Office	3.5/1,000	100,000 sf	350
Retail	5/1,000	100,000 sf	500
Hotel w/Restaurant	1.5/room	100 rooms	150
Family Restaurant	9.5/1,000	20,000 sf	190
Theater	1/4 seats	200 seats	50
Church	1/4 seats	400 seats	100
TOTAL if figured separately			1,340

Spaces Required applying the Peak Demand Percentages to the Example:

	Weekdays		Weekends		Nighttime
	6 am--5pm	5pm--1am	6 am--5pm	5pm--1am	1am--6am
Office	350	35	35	18	18
Retail	300	450	500	350	25
Hotel w/Restaurant	113	150	113	150	113
Family Restaurant	95	190	190	190	19
Theater	20	50	40	50	5
Church	50	50	100	100	10
TOTAL	928	925	978	858	189

Highest demand = 978 (instead of 1,340)

(c) Availability of Shared Spaces.

Parking spaces that are proposed to be shared among two or more uses must be clearly available to each use and not appear in any way to be serving a particular use, either through signage dedicating the spaces or through design techniques that would tend to orient use of the spaces to a particular business or building.

(d) Recordation of Shared Parking Agreement.

Shared parking arrangements must be committed to writing in an instrument acceptable to the Planning and Development Director, and approved by the owners of each of the affected properties or uses. The instrument must be approved by the Planning and Development Director and shall be recorded with the Clerk of the Superior Court, and a copy of the recorded document must be supplied to the Planning and Development Director. The document must be written to survive future changes in ownership in perpetuity, unless the agreement is dissolved with approval by the Duluth City Council.

403.08 Parking Lot Design, Screening, and Location.

The requirements of this Section shall apply to all off-street parking lots, including areas dedicated to customer and employee parking and for storing or displaying vehicles (such as a car sales lot).

(a) In all zoning districts, there are options for placement and screening of parking lots on the property. Those options include:

- (1) Push the building closer to the road and allow no parking between the building and the road with the required 10-foot landscape strip as required in the Buffers, Landscaping and Tree Protection Article of this Development Code.
 - a. The Planning and Development Director has the discretion to reduce the front building setback accordingly to achieve this goal.

- b. Changes in topography or other unusual circumstances may be reviewed by the Planning and Development Director, and at his discretion, may modify requirements of this Section, provided the intent of this Article is maintained.

- (2) Place any portion of the parking between the road and the building with a minimum 3 foot high landscaped berm (maximum 2:1 slope) and a 10 foot landscape strip in accordance with the standards of the Buffers, Landscaping and Tree Protection Article.

- a. If parking is located below road grade, that vertical footage may be counted toward the required berm height.



Illustrative example of a landscaped berm used to screen a parking lot.

- b. Changes in topography or other unusual circumstances may be reviewed by the Planning and Development Director, who, at his discretion, may modify requirements of this Code Section, provided the intent of this Article is maintained.

- (b) In all areas, pedestrian access via sidewalks shall be provided from the front of the building(s) to the rear parking areas and to the road. Adequate signage directing vehicular traffic to the rear of the building shall also be provided. Parking area(s) shall be lined with large maturing canopy trees a minimum of 15 foot on center, based on species and size at maturity.

403.09 Parking Lot Landscaping.

In addition to any landscaping required in the Buffers, Landscaping and Tree Protection Article, there shall be a minimum amount of landscaping within the interior of a parking lot over 10 spaces for a non-residential use shall be designed as follows:

- (a) Planter islands shall be a minimum of 250 square feet and shall be located at the terminus of each parking row and no further apart than every 10 spaces.
- (b) All planter islands must be designed with at least 60% coverage in shrubs and no more than 40% coverage in ground cover and landscaping materials. The planter island area shall include at a minimum one shade tree. No plant materials, with the exception of trees, shall exceed 3 feet in height. Turfgrass shall not be permitted in the planter islands.
- (c) Planter islands and landscape strips are usually defined by a barrier curb to prevent vehicular encroachment. Wheel stops or breaks in the barrier curb shall be provided in order to allow for drainage into areas designed to accommodate the stormwater discharge directed to them.



Illustrative example of a continuous planting strip between planter islands and breaks in the curb to allow stormwater to enter.

- (d) Planter islands and strips shall be designed to prevent compaction. This may be accomplished by planting a dense shrub cover or by elevating the planting area a minimum of 1 foot above the curb.
- (e) Parking lots with more than 100 spaces but less than 375 spaces shall provide planting strips with a minimum width of 5 feet and shall run continuously between all planter islands. These strips shall be planted with 1 tree for every 15 feet of the planter strip, taking into consideration the species and height at maturity.
- (f) Landscaping shall meet the requirements in the Buffers, Landscaping and Tree Protection Article of this Development Code pertaining to use of native plantings and water-efficient design.

403.10 Standards for Large Parking Lots.

Parking lots having a minimum of 375 spaces shall be subdivided into distinct zones of interconnected parking areas that contain no more than 250 parking spaces each.

- (a) Each zone shall be separated by occupied buildings or by perimeter landscape strips that are at least 10 feet in width and are landscaped as provided in the Buffers, Landscaping and Tree Protection Article.
- (b) Each parking area shall include sidewalks that are a minimum of 5 feet wide with prominently marked crosswalks, providing a continuous route to the entrances of adjoining buildings and streets.
- (c) Bicycle racks equal to one bicycle parking space for each 75 required off-street parking spaces, up to a maximum of 10 bicycle spaces, shall be provided. Bicycle parking areas shall be located in a lighted public area within 200 feet of a principal building entrance.



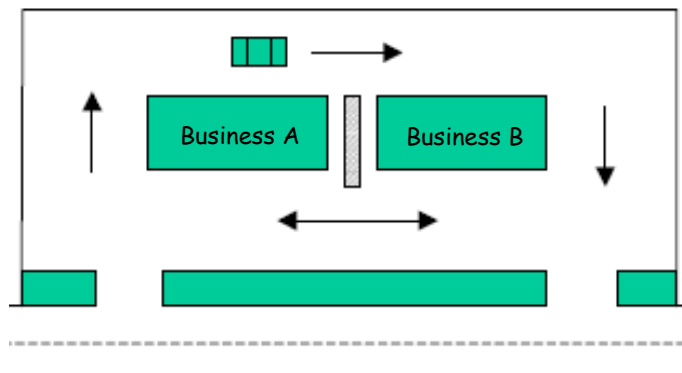
Illustrative example of continuous sidewalks and landscape strips in large parking lots.

403.11 Interparcel Access.

Interparcel access shall be required as follows:

- (a) Internal Access Easements Required.

For any office or retail sales or services use, the property owner shall grant a “cross” or internal access easement as described in this subsection to each adjoining property that is zoned or used for an office or retail sales or services use. The purpose of the easement is to facilitate movement of customers from business to business without generating additional turning movements on the public street, thus increasing public safety.



Illustrative Example of Interparcel Access

(b) Access Easement Provisions.

The internal access easement shall permit automobile access from the adjoining property to driveways and parking areas intended for employee, customer, or visitor use on each property; but parking spaces may be restricted to use by each owner's employees, customers, and visitors only.

- (1) Interparcel vehicle access shall be required between contiguous properties only when the parking areas are or will be in reasonable proximity to one another.
- (2) All internal access easements shall be no less than 28 feet in width and shall be improved to a minimum paved width of 24 feet in order to accommodate two-way vehicular traffic to and from the adjoining properties.
- (3) The granting of an internal access easement on a property shall be effective only upon the granting of a reciprocal easement by the adjoining property owner.
- (4) Upon the availability of access to driveways and parking areas of the adjoining lot, the pavement or other surfacing of each owner's driveways and parking areas shall be extended by each owner to the point of access on the property line.

(c) Relief.

Where the proposed land use is such that adverse impact of the required easement on use of the property would outweigh the reduced impact on the public street provided by the reciprocal easements, the Planning and Development Director may waive the requirement for the access easements, in whole or in part, in accordance with the Administrative Approval provisions in the Appeals Article of this UDC.

Section 404. Number of Off-Street Parking Spaces Required.

404.01 Off-Street Parking, General Requirements.

This section shall provide for the minimum and maximum number of off-street parking spaces based on use.

- (a) See Table 4-B for the required minimum number of off-street parking spaces.
- (b) For each use, the total number of spaces provided shall not exceed 120% of the minimum spaces required.
- (c) Parking for Company-Owned Vehicles Not Included.

Every business that stores vehicles owned by the business on site overnight (such as a company fleet), or maintains a stock of vehicles as part of its business activities (such as a car sales lot, car rental agency, etc.), shall provide for adequate parking or storage for the vehicles such that no parking occurs in a public right-of-way or in an area that has not been improved as a parking lot or storage yard. Such parking spaces shall be in addition to those required for residents, employees, customers, and visitors.

(d) Maneuvering Lanes Not Considered Parking.

Areas designated for temporary occupancy of vehicles while maneuvering on a site, such as queuing lanes for a drive-in window, are not considered parking spaces.

- (e) See the Use of Land and Structures Article of this Development Code for off-street parking requirements in the CBD District and DOD Overlay District.

Table 4-B: Minimum Parking Spaces by Use

Use	Number of Parking Spaces:	Required for Each:
a. RESIDENTIAL		
1. Single-Family Residence	2 enclosed	Dwelling Unit
2. Two-Family Residence	2	Dwelling Unit
3. Townhome	2 enclosed	Dwelling Unit, plus 1 outdoor space per 5 units
4. Multi-Family Residence or Condominium	2 covered	Dwelling Unit, plus 1 outdoor space per 5 units
5. Retirement Community	1	Dwelling Unit
6. Membership Dwellings, Personal Care Homes, Nursing Homes	1	2 residents or beds
7. Bed & Breakfast, Rooming House, Boarding House	1	Room to be rented
8. Hotel or Motel:		
(a) Convention hotel, or a motel with a restaurant or lounge	1½	Room
(b) Non-convention hotel or a motel with no restaurant	1	Room
b. COMMERCIAL		
1. Offices: general and professional offices, insurance, and real estate offices	3½	1,000 sf ¹ of GFA ²
2. Banks	4½	1,000 sf of GFA
3. Offices - Medical & Dental	4½	1,000 sf of GFA
4. Funeral Home	35	Viewing Room
5. Daycare Center	4	1000 sf of GFA
6. Movie Theater	1	3 Seats
7. Service Station, Gas Station, Auto Repair Shop, or Garage	3 5	Service bay, plus 1,000 sf of retail space
8. Automobile, Truck, Recreation Vehicle, Manufactured Home or Utility Structure Sales	2 1 3	1,000 sf of indoor sales area, plus 2,500 sf of outdoor display, plus Service bay

¹ Square feet.² Gross floor area—the total area of all floors, measured between the exterior walls of a building.

Table 4-B: Minimum Parking Spaces by Use

Use	Number of Parking Spaces:	Required for Each:
9. Custom Service Restaurant:		
(a) Quality restaurant	20	1,000 sf of GFA
(b) Family Restaurant	18	1,000 sf of GFA
10. Fast Food Restaurant	15	1,000 sf of GFA
11. Bowling Center	4½	Lane
12. Amusement Parlor, Recreational Attraction, Roller Skating, or Ice Skating Rink	6	1,000 sf of GFA
13. Health Club or Fitness Center	8	1,000 sf of GFA
14. Shopping Centers:		
(a) Less than 100,000 sf of GLA ³	4 3 10	1,000 sf of total GLA, plus 100 movie theater seats, plus 1,000 sf of food service area
(b) 100,000-199,999 sf of GLA	4 3 6	1,000 sf of total GLA, plus 100 theater seats over 450, plus 1,000 sf of food service area
(c) 200,000-399,999 sf of GLA	4 3	1,000 sf of total GLA, plus 100 theater seats over 750
(d) 400,000-599,000 sf of GLA	4½ 3	1,000 sf of total GLA, plus 100 theater seats over 750
(e) 600,000 or more sf of GLA	5 3	1,000 sf of total GLA, plus 100 theater seats over 750
15. Supermarket	5½	1,000 sf of GFA
16. Drug Store	2½	1,000 sf of GFA
17. Dry Cleaners	2½	1,000 sf of GFA
18. Furniture or Carpet Store	2½	1,000 sf of GFA
19. Hardware or Paint Store	2	1,000 sf of GFA
20. Home Improvement Superstore	4½	1,000 sf of GFA
21. Office Supply or Electronics Superstore	2½	1,000 sf of GFA
22. Building Supplies, Brick, or Lumber Yard	2 1	1,000 sf of indoor sales area, plus 2,500 sf of outdoor display
23. Retail Sales or Service establishments not listed above	5	1,000 sf of GFA
c. INDUSTRIAL AND MANUFACTURING		

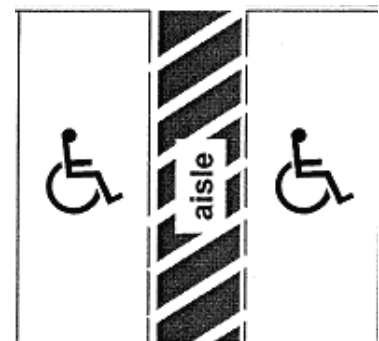
³ Gross leasable area—the total area of all floors intended for occupancy and the exclusive use of tenants, specifically excluding public or common areas such as utility rooms, stairwells, enclosed malls, and interior hallways.

Table 4-B: Minimum Parking Spaces by Use

Use	Number of Parking Spaces:	Required for Each:
1. Wholesale, Office-Warehouse	1 1	200 sf of office space, plus 1,000 sf of storage area
2. Open storage of sand, gravel, petroleum, etc.	1	2,500 sf of outdoor sales area, if any
3. Warehouse, Transfer, and Storage	1	600 sf of GFA
4. Warehouse including commercial sales to the public	1 1	200 sf of sales or office, plus 1,000 sf of storage area
5. Manufacturing	2½	1,000 sf of GFA
d. INSTITUTIONAL AND OTHER		
1. Hospital	1.8	Bed
2. Church or other Place of Worship	1	5 seats, 10 feet of pew or per 5 people of occupancy
3. Auditoriums, live theatres, stadiums, and other places of assembly	1	3 seats
4. College (instructional space)	10	Classroom
5. Technical College, Trade School	10	Classroom
6. Senior High Schools	10	Classroom
7. Elementary & Jr. High Schools	2½	Classroom
8. Civic Clubs, Community Centers, Fraternal Lodges, etc.	1	200 sf of GFA

404.02 Handicap Accessible Parking Spaces.

- (a) Handicapped spaces are to be provided as required by the federal Americans with Disabilities Act for all multi-family and nonresidential uses. Handicap accessible spaces shall be provided in each parking lot in relation to the total number of spaces otherwise provided for the use as shown on Table 4-C.
- (b) Handicap accessible parking spaces shall be counted as part of the total number of parking spaces required under this Article.
- (c) Handicap accessible parking spaces shall have an adjacent aisle 5 feet wide, and one in every eight handicapped spaces shall be adjacent to an aisle 8 feet wide and the space shall be signed "van accessible." Handicapped parking space aisles shall be clearly demarcated by lines painted on or otherwise applied to the parking lot surface.



← 5' →

- (d) Handicap accessible parking spaces shall be located on a surface with a slope not exceeding 1 vertical foot in 50 horizontal feet (1:50).
- (e) Wheelchair ramps shall be provided at locations appropriate to normal travel routes from the parking lot to the principal use.
- (f) In addition to the requirements of this subsection, all handicapped parking shall comply with the requirements of the federal Americans with Disabilities Act and the Georgia Accessibility Code.

Table 4-C: Handicap Accessible Spaces Required

Total Spaces Provided for Use	Minimum Number of Handicap Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

Source: Americans with Disabilities Act Accessibility Guidelines.

404.03 Electric Vehicle Charging Stations.

- (a) Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements for non-single-family uses.
- (b) Electric vehicle charging stations must be reserved for charging electric vehicles. For purposes of this provision, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.
- (c) Vehicle charging equipment must be designed and located so as not to impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.
- (d) Information must be posted identifying voltage and amperage levels and any type of use, fees, or safety information related to the electric vehicle charging station. The information shall be posted on a miscellaneous freestanding sign, as defined and regulated by the Sign Regulations Article of this Development Code.
- (e) Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number or other contact information must be provided on the equipment for reporting when it is not functioning or other problems are encountered.

**Section 405. Prohibited Off-Street Parking.****405.01 Parking in a Residential District.**

In any residential district the following requirements shall apply:

- (a) The parking of any vehicle in the front yard or in front of the principal building line is prohibited except on a hard-surfaced driveway or in a carport or garage.
- (b) Parking or storing any motor vehicle, boat, RV, trailer, camper, camper top, machinery, mobile equipment or automobile shall not be allowed in the front yard, side yard or rear yard of a dwelling unless said motor vehicle, boat, RV, trailer, camper, camper top, machinery, mobile equipment or automobile is parked on a concrete or gravel driveway. Therefore, it shall be unlawful to park or store any such named item or similar item on the grass, lawn, or dirt areas in the yard of any dwelling located within the corporate boundaries of the city.
- (c) No more than 35% of a combination of the front, side and rear yards may consist of a concrete or gravel driveway or parking area and the remaining percentage shall be grass or landscaped areas.

405.02 Prohibition on Travel in Residential Subdivisions.

No heavy truck shall enter, travel, or park on a street in a residential subdivision in the City of Duluth, except for the purpose of delivering goods to houses or points within such residential subdivision for short periods of time during daylight hours.

405.03 Overnight Stay.

No heavy truck or tractor trailer shall enter, travel, or park on a street in a residential subdivision, or park on a right-of-way in the City of Duluth or park on any property within the City of Duluth for the purpose of an overnight stay by the driver or operator.

405.04 Parking in a Non-Residential District

No heavy truck, heavy equipment, recreational vehicle, boat, semi-trailer, tractor-trailer, trailer, camper or other Oversized Vehicle shall park in any non-residential district except those vehicles parked temporarily while making a delivery, providing a service, or purchasing goods or services. All vehicles shall be parked on an approved concrete or asphalt parking surface within a marked space specifically designated for Oversized Vehicles. Fleet vehicles parked at their commercial business address, Oversized Vehicles listed for lease or sale, and vehicles stored in dead storage establishments are permitted. Vehicles loading and unloading merchandise, supplies, goods, freight, provisions or furnishings shall be governed by the provisions of Section 406, Off-Street Truck Loading.

Section 406. Off-Street Truck Loading.**406.01 Off-Street Truck Loading; Where Required.**

Areas proposed for loading and unloading motor vehicles in off-street locations shall be provided at the time of the initial construction of any building or structure used or arranged to be used for commercial, industrial, hospital, institutional, hotel/motel or multi-family residential purposes in any zoning district. Such off-street loading areas shall have access to a public alley or street and shall be provided and maintained in accordance with the following requirements, the computation of which shall not be included in the off-street parking requirements.

(a) Loading Spaces Provided.

Any such business or use shall provide adequate off-street facilities for the loading and unloading of merchandise, supplies, goods, freight, provisions or furnishings within or adjacent to the building as deemed appropriate by the owner or occupants of the property. Such loading facilities, if provided, shall not obstruct freedom of vehicular traffic or pedestrian movement on the public streets and sidewalks.

(b) Location of Off-Street Loading Areas.

Off-street loading and unloading areas shall in all cases be located on the same lot or parcel of land as the structure they are intended to serve. In no case shall the off-street loading space be considered as part of the area provided to satisfy off-street parking requirements as listed herein.

(c) Adequacy of Loading Area.

All such uses shall provide off-street loading areas sufficient for their requirements. Such space shall be adequate if no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley, or way.

(d) Use of Off-Street Truck Loading Area

Off-Street loading areas shall not be used as parking areas, rest areas or for over-night stays. It shall be unlawful for any heavy truck, heavy equipment, recreation vehicle, semi-trailer, tractor-trailer, trailer, camper or other Oversized Vehicle to park, stop or stand in any designated off-street loading area for any purpose other than to actively load or unload merchandise, supplies, goods, freight, provisions or furnishings.

406.02 Setback Requirements; Loading Areas.

- (a) Off-street truck loading areas shall be set back from the front property line by at least 10 feet. An additional 10 foot setback from any buffer required along a side or rear property line shall also be maintained.

- (b) The required setback area between the front property line and the truck loading area shall be used for landscaping and/or screening as required by the applicable provisions of the Buffers, Landscaping and Tree Protection Article of this Development Code.

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Article 5. Subdivisions and Planned Developments

Article 5 presents the different ways that land can be subdivided and developed, ranging from conventional subdivisions, to conservation subdivisions where green space and natural features are preserved by reducing lot sizes, to master planned developments that allow a wider variety of housing and nonresidential uses in a well-planned mixed-use environment while also preserving green space and natural features.

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Article 5. Subdivisions and Planned Developments

Section 501. Minor and Major Subdivisions, Defined.

501.01 Minor Subdivisions, General Standards.

- (a) A “minor subdivision” by its very nature is one in which no public improvements (such as new streets, stormwater drainage facilities or public utilities) are to be made.
- (b) A minor subdivision as defined in this Development Code shall be exempt from the "procedures" and "required public improvements" portions of this Code, except as noted.
- (c) Each minor subdivision, with the exception of those described in Section 501.02(b)(2)b and Section 501.02(b)(4) shall be drawn as an exemption plat in accordance with final plat standards pursuant to the requirements of the Procedures and Permits Article of this Development Code. Upon approval, the Planning and Development Director shall authorize the recording of the exemption plat with the Clerk of Superior Court of Gwinnett County and grant the issuance of building permits pursuant to the codes and ordinances of the City of Duluth.

501.02 Minor Subdivisions, Defined.

A minor subdivision shall be defined as any of the following:

- (a) 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 or parcels are in compliance with this Development Code. An exemption plat shall not be required for aggregations of properties for land assembly purposes where no building permit will be requested prior to issuance of a development permit.

- (b) Lot Splits.

- (1) Five-Lot Split.

The division of a buildable lot of record into five or fewer lots, provided:

- a. Each proposed lot complies with all requirements of this Development Code and is limited to single family detached residential use;
- b. Each proposed lot abuts upon an existing public street;
- c. All related slope and utility easements as well as necessary street rights-of-way as determined by the Duluth Planning and Development Department based on the Comprehensive Plan are provided at no cost to the City;
- d. Each lot thus created may not be resubdivided pursuant to the provisions of this subparagraph. Such resubdivision shall be accomplished only through the procedures contained in the Subdivision Review Procedures section of the Procedures and Permits Article of this Development Code;
- e. Each proposed lot shall comply with the requirements of the Gwinnett County Public Utilities Department and the Gwinnett County Environmental Health Department, as appropriate, whose certification of approval shall be required prior to approval of the exemption plat by the Duluth Planning and Development Department; and

- f. The Director is authorized to grant a modification from the five lot maximum exemption; provided, however, modifications shall not be granted to exceed a total of seven exempt lots. The Planning and Development Director may impose conditions of approval upon any modification thus granted as may be necessary to ensure the general public welfare.

(2) Large Lot Splits.

- a. The division of land in any single family detached residential zoning district into lots having a minimum lot area of at least 5 acres, provided:
 - 1. Each proposed lot fronts on an existing public street which contains or shall contain the necessary right-of-way width required by this Development Code as determined by the Comprehensive Plan;
 - 2. Each proposed lot shall provide at least 100 feet of frontage upon the street, shall provide at least 200 feet of lot width measured in accordance with the requirements of this Development Code, and shall meet or exceed all other minimum requirements of the applicable single family detached residential zoning district;
 - 3. All related slope and utility easements as well as necessary street right-of way shall be provided at no cost to the City as determined by the Planning and Development Department based upon the Comprehensive Plan;
 - 4. No lot thus created may be re-subdivided to less than 5 acres as an exemption to this Development Code; and
 - 5. Each proposed lot shall comply with the requirements of the Gwinnett County Public Utilities Department and the Gwinnett County Environmental Health Department, as appropriate, whose certification of approval shall be required prior to approval of the exemption plat by the Duluth Planning and Development Department.
- b. The division of land in any single-family detached residential zoning district into lots having a minimum lot area of at least 10 acres, provided:
 - 1. Each proposed lot abuts upon an existing public street;
 - 2. Each proposed lot shall provide at least 100 feet on frontage upon the street, shall provide at least 200 feet of lot width measured in accordance with the requirements of this Development Code, and shall meet or exceed all other requirements of the applicable single family detached residential zoning district;
 - 3. No lot thus created may be re-subdivided to less than 5 acres as an exemption to this Development Code; and
 - 4. A record survey certified by a land surveyor currently registered in the State of Georgia shall be submitted to and approved by the Planning and Development Director showing all lots.

(3) Nonresidential Project Management.

The creation of a lot for recording within an overall nonresidential development, provided:

- a. The overall nonresidential development is being undertaken as a single multi-phase or multi-use project under the unified control of a single developer, is zoned for such use

- or development, and an overall sketch plan for the entire project has been approved by the Planning and Development 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 Planning and Development Director;
 - c. The proposed lot has been approved by the Duluth Planning and Development Department to be provided permanent vehicular access by private drive. Said access shall be established by easement or acceptable covenant prior to 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; and
 - e. The exemption plat shall be drawn to include the entirety of the overall development and shall clearly identify those lots to be recorded, those lots previously recorded and the remainder of the development which shall be labeled "not included." All easements, dedications, etc., shall be shown as appropriate or as required. Each lot shall be consistent with the zoning approved for the overall development and the applicable requirements of the Zoning Resolution.
- (4) Amnesty Lots.

The designation of a lot as a buildable lot of record if the lot was recorded between 1970 and the effective date of these Regulations but not reviewed and approved under the provision of the Subdivision Regulations in effect at that time, provided:

- a. The exemption plat is limited to one individual lot and no property which adjoins the lot is or has been owned by the applicant in whole or in part;
- b. The lot meets all requirements of the Use of Land and Structures Article of this Development Code, and the applicant demonstrates to the satisfaction of the Planning and Development Director that approval of the lot will not create non-conformity to the requirements of the Use of Land and Structures Article on any portion of the original property from which the lot was subdivided;
- c. The lot abuts upon an existing public street;
- d. All project related slope and utility easements as well as necessary street right-of-way as determined by the Planning and Development Director based on the Comprehensive Plan is provided at no costs to the City;
- e. The lot shall comply with the requirements of the Gwinnett County Department of Public Utilities and Gwinnett County Environmental Health Department, as appropriate, whose certification of approval shall be required prior to approval of the exemption plat by the Planning and Development Director; and
- f. A record survey certified by a land surveyor currently registered in the State of Georgia shall be submitted to and approved by the Planning and Development Director showing the lot.

501.03 Major Subdivision.

- (a) A "major subdivision" is any subdivision that does not qualify as a "minor subdivision." A major subdivision commonly involves the construction of a new street or widening or other improve-

ment of an existing roadway, the provision of stormwater drainage facilities, or the construction or improvement of public utilities, or which has six or more lots (not in a large lot minor subdivision), building sites or other divisions.

(b) Major subdivisions fall into the following categories for the purpose of development regulation:

- (1) **Conventional subdivisions**, in which the minimum lot size allowed for the zoning district determines the maximum number of lots in the subdivision, and all of the lots meet the minimum lot size for the zoning district as shown in the Use of Land and Structures Article of this Development Code. Common open space outside of the lots may be created, but is not required, with the exception that conservation areas as defined by this Article are required to be protected (see Section 505).
- (2) **Conservation subdivisions**, in which the maximum number of lots that would be allowed in a traditional subdivision under the property's zoning determines the maximum number of lots in the subdivision, but the minimum lot size may be reduced in response to a higher level of development standards and in order to create more conservation areas and recreational amenities for the residents.
- (3) **Planned unit developments (PUDs)**, in which a mixture and/or increased density of land uses is allowed in response to a higher level of development standards and in order to efficiently use the land and organize uses.
- (4) **Other planned developments**, which include manufactured home parks, apartment buildings and complexes, condominiums, and commercial developments consisting of three or more businesses. For the purposes of this Article, planned developments other than PUDs are controlled by the provisions of their respective zoning districts.

(c) Permanent Protection Required.

All conservation areas in a conventional subdivision, conservation subdivision or PUD that are required to be protected by the provisions of this Article, shall be permanently protected from further subdivision, development, and unauthorized use, by the method described in Section 505 of this Article.

(d) Summary Table.

Table 5-A presents a summary of the requirements of this Article as they apply to each of the types of major subdivisions and developments. Refer to the text of this Article for specific provisions.

Table 5-A: Summary Comparison of Subdivisions and Developments

	Conventional Subdivision ¹	Conservation Subdivision	Planned Unit Development	Other Planned Developments
Approval	By right in all zoning districts	By right in RA-200, R-100 and R-75 Districts	PUD zoning required	By right in applicable zoning districts
Max. Number of Lots	All lots must meet minimum standards for the zoning district	Per maximum density calculation or Yield Plan	Per PUD zoning approval	Not applicable
Minimum Lot Size: Public Water + Septic² RA-200 District R-100 District R-75 District	40,000 sf 25,000 sf 25,000 sf	Per Health Department requirements ³	25,000 sf	Per Health Department requirements
Minimum Lot Size: Public Water & Sewer RA-200 District R-100 District R-75 District	40,000 sf 18,000 sf 12,000 sf	No minimum lot size ³	Per PUD zoning approval	Per applicable zoning district requirements
Conservation Areas to be Permanently Protected	Yes	Yes	Yes	Yes

¹ All requirements of the applicable zoning district apply to Conventional Subdivisions.

² Larger lot sizes may be required by the Gwinnett County Environmental Health Department.

³ No portion of the lot area may be located within the 100-year floodplain elevation

Section 502. Conventional Subdivisions.

502.01 Maximum Number of Lots.

The maximum number of lots in a conventional subdivision shall be determined by the minimum lot size requirements of the zoning district in which the subdivision is located, with the exception of lots served by on-site sewer (septic tank) which shall be subject to the approval and lot size standards of the Gwinnett County Environmental Health Department.

502.02 Minimum Lot Size.

In a conventional subdivision, the minimum total lot area and the minimum lot area per dwelling unit required by the Use of Land and Structures Article establishes the minimum lot sizes for each lot.

502.03 Minimum Lot Width, Setbacks.

The lot width and setback requirements of Use of Land and Structures Article apply to each lot in a conventional subdivision.

Section 503. Conservation Subdivisions.

Conservation subdivisions, as defined herein, are allowed in the RA-200, R-100 and R-75 zoning districts provided that a conservation subdivision concept plan has been approved by City Council at the time of the rezoning of the property or by staff as part of the development review process for properties zoned RA-200, R-100 or R-75 as of the effective date of this Development Code.

503.01 Purpose.

The purposes of a conservation subdivision include:

- (a) To provide residential subdivisions which permit flexibility of subdivision design in order to promote environmentally sensitive and efficient uses of the land.
- (b) To allow clustering of houses and structures on less environmentally sensitive soils, which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (c) To encourage the development of residential communities that are density neutral based on standard zoning and development standards, but designed to preserve and protect environmental resources, scenic vistas, and natural and cultivated landscapes.
- (d) To enhance land, water, air, and tree resources by minimizing the area of land disturbance, reducing impervious surface, optimizing stream buffers, preserving tree cover and encouraging the conservation of environmentally sensitive areas and the provision of open space.
- (e) To reduce infrastructure maintenance costs due to efficient community design.
- (f) To provide open space and pedestrian linkages among residential communities and to encourage recreation opportunities.
- (g) To preserve and protect contiguous undeveloped areas within the development.
- (h) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

503.02 General Standards.

- (a) Density Determination.

The maximum number of lots in the conservation subdivision shall be determined by yield plan or calculation, at the developer's option. The yield plan or calculation shall be prepared by a Georgia registered engineer or landscape architect.

- (1) Yield Plan.

A yield plan that shows the maximum number of lots a tract can support based on the property's underlying zoning and development standards of this Development Code. The plan does not have to meet all of the formal requirements for a site design plan, but the design must be capable of being constructed given the site features and all applicable regulations. All standard zoning or development regulations must be met (including lot sizes, right-of-way widths, etc.) At a minimum, the plan must account for and depict standard

rights-of-ways, lot information (sizes, widths, and setbacks), drainage and detention areas, easements, floodplain, lakes, wetlands, streams, and stream buffers.

(2) Calculation.

The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning district. In making this calculation, the following shall not be included in the total area of the parcel:

- a. Slopes over 25% of at least 5,000 square feet contiguous area;
- b. The 100-year floodplain;
- c. Bodies of open water over 5,000 square feet contiguous area;
- d. Wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; and,
- e. Anticipated right-of-way needs for roads and utilities.

(b) Minimum Conservation Area.

- (1) A minimum of 40% of a tract's gross land area must be set aside and protected as a conservation area as defined herein.
- (2) At least 75% of the conservation area shall be in a contiguous tract. The conservation area should adjoin any other protected area, and non-protected natural areas that would be candidates for inclusion as part of a future conservation area.
- (3) See also Section 503.04.

(c) Development Requirements.

Conservation subdivisions shall meet the following requirements:

(1) Minimum Subdivision Size.

Each tract proposed to be developed as a conservation subdivision must be a minimum of 10 contiguous acres. The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.

(2) Lot Area.

No minimum is established, except that no portion of the lot area may be located within the 100-year floodplain elevation.

(3) Average Lot Width.

The average width of all building lots, as defined by this Development Code, shall be at least 60 feet. Exception: Lots that abut properties not located within the conservation subdivision shall meet the standard width requirement of the underlying district; or, open space at least 50 feet wide shall be provided.

(4) Minimum Road Frontage per Lot.

The minimum required road frontage per lot shall be 40 feet. Exception: Road frontage may be reduced to 20 feet for lots with frontage upon cul-de-sac or “eyebrow cul-de-sac” turnarounds.

(5) Minimum Yard Areas (Setbacks).

- a. The minimum required front yard shall be 20 feet. Exception: The front yard setback may be reduced to 5 feet if dwellings are provided side or rear entry garages. To qualify for the reduced setback on a corner lot, side entry garages must be located to the side adjacent to an abutting lot.
- b. The minimum required rear yard shall be 20 feet.
- c. The minimum required side yard shall be 5 feet.

(6) Exterior Project Street Frontage Landscape Buffer.

A landscape buffer that is a minimum of 50 feet in width (not part of any building lot) shall be provided along the tract and any external roadways. Landscape entry features such as fences and walls may be allowed in the portion of the landscape buffer that is provided along any external roadways.

(7) Maximum Building Height. The maximum building height shall be 35 feet.

(8) Sodded Yards. All yards of dwelling lots shall be sodded.

(9) Garages. Dwellings shall have a minimum of two-car garages.

(10) Street Trees.

A minimum of one non-ornamental shade tree with a minimum 3.5-inch caliper shall be provided prior to the issuance of a certificate of occupancy for each lot along all roadways.

(11) Underground Utilities. All utilities shall be located underground.

503.03 Application Requirements.

(a) Existing Features Site Analysis.

At time of development review, or if a zoning action is proposed, an existing features site analysis, sealed by a registered engineer or landscape architect, must be provided to identify areas that are most significant for designation as conservation areas. The existing features site analysis shall include the following information:

- (1) Property boundaries.
- (2) Delineation of streams, rivers, lakes, wetlands and other hydrologic features to include the source of this information.
- (3) All conservation areas labeled, as described in Section 505.
- (4) Topographic contours at intervals no greater than 2 feet.
- (5) Identification of tree lines, woodlands, open fields or meadows.
- (6) General soil type.
- (7) Delineation of steep slope areas (i.e. greater than 25% and at least 5,000 square feet contiguous area).

- (8) Identification of existing roads, structures and easements.
- (9) Identification of open space in adjacent developments including potential connection to existing trails and greenspace.
- (b) Concept Plan.

Based on the density determination (yield plan or calculation) and the existing features site analysis, an overall concept plan showing development of the entire tract shall be submitted by the developer for review and approval in accordance with the requirements and procedures of the Procedures and Permits Article of this Development Code (see the Concept Plan Specifications Section). If a zoning action is proposed, the rezoning site plan shall include the following information:

 - (1) Delineation and specifications of conservation areas including calculations and exclusions, and any “pocket parks,” “greens,” play areas, or trail system to be constructed.
 - (2) A typical detail on the plan indicating dwelling size, lot width, building setback lines, off-street parking, street trees, sidewalks, and street pavement and right-of-way width.
 - (3) Lot width average, area and percent of floodplain specifications in tabular form; and density calculations (gross and net).
- (c) Conservation Area Management Plan. A conservation area management plan, meeting the requirements described herein, shall be prepared and submitted prior to the issuance of a land disturbance permit.

503.04 Conservation Area Requirements.

See Section 505.

Section 504. Planned Unit Development (PUD).

504.01 Intent and Purpose.

- (a) The Planned Unit Development District is intended to:
 - (1) Encourage larger scale planned development which will produce a logically organized and compatible set of land uses resulting in a higher overall quality of Planning and Development than if accomplished in incremental unplanned stages.
 - (2) Allow a mixture and/or density of land uses not otherwise allowed in an established zoning district; by careful site planning the appropriate site improvements are incorporated into the plan that establish compatible relationships between the uses within the site and uses adjacent to the site.
 - (3) Encourage creative site design which seeks to preserve the open space and unique environmental features, conserve energy through efficient building design and clustering, efficiently use the land, and increase the efficiency of public service delivery.
 - (4) Provide flexibility in the application of area, height, bulk, placement and other zoning controls.
 - (5) Promote land development in proper relation to the surrounding neighborhood.
 - (6) Ensure that the design of the building forms are interrelated and architecturally harmonious.

- (7) To be applied in a manner consistent with the Land Use Plan for the City of Duluth.
- (b) Planned Unit Development Districts are separate zoning districts and shall follow the same amendment procedures as other zoning districts. Unless otherwise stated in this Article, the development standards and the land uses that are presented with the application for amendment, shall, if approved, become the standards for the subject property and shall become a part of the zoning approval.
- (c) Any PUD that was approved prior to the adoption of this Development Code or amendments to the Code shall continue to be developed under the provisions and conditions of zoning approval that applied at the time of rezoning.

504.02 Requirements for PUD Development.

A planned unit development shall meet the following minimum requirements:

- (a) A minimum of 10% of the gross area of the site shall be retained in common open space that is required to be deeded as a separate tract to an Owners Association and shall forever remain as open space. The required common open space shall include any conservation areas within a conservation easement established in accordance with Section 505.
- (b) Additional common open space may be provided and may include active recreation areas for the proposed development, such as swimming pools, tennis courts, community facilities, etc.
- (c) PUDs comprised solely of multi-family dwellings (townhouses, condominiums and/or apartments) shall dedicate a minimum of 10% of the gross floor area to non-residential uses that benefit on-site residents. Example of acceptable non-residential uses include a gym, community room, concierge, etc.
- (d) A PUD that does not have access to a publicly-approved sewer system must meet all application requirements for wastewater disposal of the Gwinnett County Environmental Health Department. If sanitary sewer is proposed or required, it must be connected to a state-approved wastewater treatment facility, either privately or publicly owned.
- (e) Sidewalks shall be required along both sides of all streets within a PUD, with the exception that sidewalks on one side of the street can provide pedestrian connectivity throughout the site. The construction standards of the required sidewalks are given in the Project Design and Construction Standards Article of this Development Code.
- (f) Where PUD abuts an RA-200, R-100, R-75 district or other residential land use, said PUD shall contain a 50-foot wide buffer strip along the abutting property lines. The 50 feet shall be added to the side or rear yard requirements of the PUD; at least 15 feet of the 50-foot buffer strip shall be planted area.
- (g) All utilities must be located underground, including private utilities such as electric power, cable and telephone.

504.03 Applications for PUD Approval.

In addition to the procedural and other requirements for a rezoning in the Procedures and Permits Article of this Development Code, approval of a planned unit development rezoning shall be requested and considered in accordance with the provisions of this Section 504.03.

- (a) Development Summary Report Required.

Applications for rezoning to or development within a Planned Unit Development District shall require a written report that establishes the type, nature, size, intent and characteristics of the proposed development. At a minimum, the report shall including the following:

- (1) A complete listing and general description of every land use category proposed within the development, including total acreage of the PUD, and the total amount of acreage devoted to each use category, as well as the total number of residential units by type and density, and gross floor area of nonresidential uses. Common open space and conservation easement acreages are to be listed separately.
 - a. Land use categories may be general and may be unique to a particular PUD, but must identify the principal nature of the category, as illustrated by such names and descriptions as single-family living, neighborhood center, workplace center, mixed-use community, etc., of the applicant's choosing.
 - b. All uses not specifically included in the report, either in a general land use category or detailed for individual areas, and approved by City Council are prohibited unless the application is subsequently amended in accordance with applicable procedures.
- (2) Individual areas of a planned unit development are to be described as to their specific use and development standards, and keyed to the master concept plan map. Each area description must include the following subject matter, as relevant to the proposed character of development.
 - a. Allowed principal and accessory uses.
 - b. Gross acreage of the individual area and approximate acreages of separate land use or development areas, including common open space and conservation easements.
 - c. Intensity of development, such as:
 1. For residential uses: Density controls (units/acre) or minimum lot size, minimum lot area per dwelling unit, minimum lot width, minimum lot frontage, minimum floor area or residential dwelling unit sizes, and maximum total number of dwelling units by type, as applicable to the character of the development proposed.
 2. For mixed-use and nonresidential uses: Gross floor area per acre or total gross floor area, dwelling unit sizes and total dwelling units, as applicable to the character of the development proposed.
 - d. Principal building setbacks or build-to lines along all streets and property lines.
 - e. Maximum building heights.
 - f. Buffers, landscape strips and open space standards.
 - g. Exceptions or variations from the sign, parking or street design requirements of this Code, if any are being requested for the individual area.
 - h. An indication whether the internal streets will be public or private.
 - i. Proposed restrictive covenants (for informational purposes only).
 - j. Any other relevant or applicable standard or requirement for the individual area.
 - k. A description of intended plans for the provision of utilities, including water, sewer, drainage facilities and street lighting, as applicable.

- l. Exceptions or variations from the sign, parking or street design requirements of the City, if any are being requested for the planned unit development in general.
- m. For all streets and utilities not proposed for dedication to the public, provisions for the ownership and maintenance must be explained.
- n. Applications may include prospective front, side and rear elevation drawings of representative building types. These drawings shall indicate general architectural characteristics. If the PUD is approved, general compliance with the architectural elevations shall be required.

504.04 Master Concept Plan Required.

- (a) Applications for rezoning to a Planned Unit Development District shall require a master concept plan, including, at a minimum, those items enumerated below. The Planning and Development Planning and Development Director, Planning Commission and/or City Council may require, in addition, such other information, studies, plats, plans or architectural elevations deemed necessary to perform an adequate review of the proposed application.
- (b) Master concept plans shall be prepared by a professional engineer, architect, land surveyor, land planner or landscape architect, and his/her seal of registration or professional initials shall be indicated on such plans.
- (c) After rezoning is approved, development of a PUD or any portion of a PUD will require submission and approval of a preliminary subdivision plat or a conceptual site plan, as applicable to the type of development proposed, in accordance with the requirements and procedures of the Procedures and Permits Article of this Development Code.

504.05 Master Concept Plan Requirements.

All master concept plans required by this Section shall contain, at a minimum, the following information:

- (a) Boundaries of the subject property based on the boundary descriptions or boundary survey submitted with the rezoning application.
- (b) Title of the proposed development and the name, address and contact information of the property owner or their designated representative.
- (c) The name, address and contact information of the architect, engineer or other designer of the proposed development.
- (d) Scale, date, north arrow, and general location map showing relationship of the site to the surrounding area, streets and/or natural features.
- (e) All existing streets within or adjacent to the property, including right-of-way and street pavement widths; location of existing buildings to be retained or removed; water courses and impoundments, wetlands and the limits of the 100-year flood plain; and other physical characteristics of the property relevant to the development proposal.
- (f) Common open space areas to be retained, and the type, location and extent of primary conservation areas.
- (g) The general location of the proposed major street circulation system to be located within the planned unit development.

- (h) General approximate delineation of individual areas of the planned unit development that differ by land use or development standards, keyed to a description for each area contained in the development summary report prepared in accordance with this Section.

504.06 Review Standards for PUD Rezoning.

In considering and acting upon applications for rezoning to the Planned Unit Development District, in addition to the standards for rezoning consideration in the Procedures and Permits Article of this Development Code, the City Council may consider and base their recommendation and decision, respectively, on the following information:

- (a) Conformity to the purpose and intent of the Planned Unit Development District.
- (b) Quality of site design.
- (c) Integration of a variety of land uses, building types and densities.
- (d) Preservation of natural features.
- (e) Compatibility with adjacent land uses.
- (f) Provision and type of open space and the provision of other amenities designed to benefit the general public.
- (g) Adequacy of utilities and other public works.

504.07 Report and Concept Plan Establish PUD Requirements.

The approved development summary report, master concept plan, and all other information, studies, plats, plans or architectural elevations submitted in the application, or required to be submitted by the City Council, shall establish the standards and minimum requirements for the subject property and shall become the conditions of zoning approval that apply to the subject property, regardless of changes in property ownership.

504.08 Revisions to Approved PUD.

- (a) Any changes that, in the opinion of the Planning and Development Director, result in a development of such intent and character that has not been conceptually approved by the City Council shall require additional approval in accordance with procedures established in the Procedures and Permits Article for a revision of conditions of rezoning approval. Such changes may be additions in the types of land uses, increases in square footage or density, decreases in lot sizes, changes in the location or dimensions of major streets, decreases in dwelling unit floor areas, major alterations in the land use patterns, or other substantial changes that are inconsistent with the summary report or the master concept plan approved for the PUD. Otherwise minor changes may be approved by the Planning and Development Director prior to issuance of development or building permits.
- (b) As development of each portion of a planned unit development proceeds, the master concept plan map shall be updated to show each final subdivision plat as it is approved for recording, and each site plan for a multi-family or nonresidential project upon its approval for a land disturbing activity permit. No certificates of occupancy will be issued within those areas until the zoning official has received the updated master concept plan map.

Section 505. Conservation Areas.

505.01 Purpose.

The purposes of this Section, among others, are as follows:

- (1) To recognize the current development rights of property owners established through zoning;
- (2) To conserve open land, including those areas containing unique and sensitive natural features such as stream buffers and wetlands, by setting them aside from development;
- (3) To reduce erosion and sedimentation by the retention of existing vegetation;
- (4) To enhance water quality of streams and waterways, and to protect valuable groundwater resources; and
- (5) To provide notification to future property owners of natural resources that must be protected on their property.

505.02 Designation of Conservation Areas.

Conservation Areas are required to be protected in a Conservation Subdivision, a PUD, or any new subdivision. These areas are defined as follows:

(a) Floodways within the 100-year Floodplain.

These areas are designated on maps prepared by the Federal Emergency Management Agency (FEMA), and must be confirmed as to their specific location on a preliminary plat for a subdivision or site development plan for a multi-family or nonresidential project.

(b) Flood Hazard Areas.

All areas within the 100-year floodplain but lying outside any floodway, wetland or other designated primary conservation area fall under this category. The boundaries of the 100-year floodplain are designated as the “flood hazard area” on maps prepared by the Federal Emergency Management Agency (FEMA), and must be confirmed as to their specific location on a preliminary plat for a subdivision or site development plan for a multi-family or nonresidential project.

(c) Required Stream Buffers.

Natural vegetative stream buffers along the banks of all perennial streams and other state waters, as required by the Soil Erosion, Sedimentation and Pollution Control provisions of the Erosion Control and Stormwater Management Article of this UDC.

(d) Wetlands.

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

505.03 Allowed Uses in Conservation Areas.

The following requirements apply only to land set aside under conservation or natural resource easements in fulfillment of the provisions of this Article.

- (a) Areas identified as conservation areas shall remain in their natural, undisturbed state. Such undisturbed areas include floodways, required stream buffers, and designated wetlands and wetland buffers.

- (b) Flood hazard areas outside of the floodway may be used for natural (unpaved) trails and for agricultural uses such as cultivated farmland and pasture, provided that no fence or structure shall be constructed that would impede the free flow of flood waters.

505.04 Prohibited Uses.

The following uses are not allowed in conservation areas:

- (a) Roads and non-permeable paved surfaces except necessary road crossings or as approved otherwise by the City of Duluth;
- (b) Above-ground utility rights-of-way except necessary utility crossings or as approved otherwise by the City of Duluth; and
- (c) Other uses inconsistent with the purposes of this Article.

505.05 Natural Resource or Conservation Easement Required.

Conservation areas that are required or intended to be protected under the provisions of this Article must be included within an easement, as follows:

All conservation areas in a Conservation Subdivision, PUD, conventional subdivision, multi-family or nonresidential development that are required to be protected by the provisions of this Article shall be permanently protected from further subdivision, development and unauthorized use as follows:

- (a) By a natural resource easement in a conventional subdivision, multi-family or nonresidential development; or
- (b) By a conservation easement in an open space subdivision or a planned unit development.

505.06 Ownership of Land in Conservation and Natural Resource Easements.

Land within a conservation or natural resource easement may be included within the lots in a subdivision, on land owned by a homeowners' association or other entity that meets the provisions for an Owners' Association as described herein, or transferred to a nonprofit conservation organization or land trust organized under Georgia law.

Section 506. Natural Resource Easements.

506.01 Natural Resource Easements; Creation.

- (a) The natural resource easement, when required, shall be shown on the final subdivision plat and recorded with the Clerk of the Superior Court at the same time as the final plat.
- (b) When included within the lots in a subdivision, the natural resource easement shall be granted at no cost to a homeowners' association or other entity that meets the provisions for an Owners' Association as described herein.
- (c) The natural resource easement shall grant a third-party right of enforcement to the Duluth City Council to enforce, at its discretion, any of the terms of the natural resource easement.

506.02 Natural Resource Easements; Guidelines.

The following guidelines must be incorporated into any natural resource easement in a form acceptable to the City Attorney:

- (a) The easement specifically and clearly identifies the boundaries of the property subject to the easement through reference to the easement area shown on the final subdivision plat;

- (b) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations shall be consistent with the type of area protected and the applicable requirements of this Article to such areas, and may include but shall not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures and uses made of the property;
- (c) The easement provides for the right of the holder of the easement to inspect the property to assure observance of restrictions and also provides for enforcement procedures;
- (d) The easement provides for the maintenance of the open space; and
- (e) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of the City.

Section 507. Conservation Easements.

507.01 Conservation Easements; Creation.

- (a) The conservation easement, when required, shall be created subject to the provisions of O.C.G.A §44-10-1, *et seq.*, which is known as the “Georgia Uniform Conservation Easement Act.”
- (b) The conservation easement shall be approved by the City Council and shall be granted at no cost to a charitable corporation, charitable association or charitable trust that qualifies as a “holder” under the Georgia Uniform Conservation Easement Act.
- (c) Such “holder” shall be approved by the City Council on the basis of their past experience as a “holder” of conservation easements and their lack of an ownership or corporate relationship with the owner or developer of the project.
- (d) The conservation easement shall grant a third-party right of enforcement to the Duluth City Council to enforce, at its discretion, any of the terms of the conservation easement.
- (e) The conservation easement may not be granted to the owner of the property to which the easement will apply, including a homeowners’ association holding natural resource conservation areas as common open space in an open space subdivision or planned development.
- (f) An undivided property ownership interest in the common open space shall be granted to each property in an open space subdivision or planned development.

507.02 Conservation Easements; Guidelines.

The following guidelines are required to be incorporated into any conservation easement, at a minimum, in a form acceptable to the City Attorney:

- (a) The easement recognizes and describes in a statement of purpose the special qualities of the property subject to the easement. Conditions within the tract subject to the conservation easement may be shown by map and/or photograph;
- (b) The easement clearly identifies the owner of the property subject to the easement, the holder of the easement, and the responsibilities of the property owner and easement holder;
- (c) The easement specifically and clearly identifies the boundaries of the property subject to the easement, either by metes and bounds legal description, survey plat or reference to the easement area shown on the final subdivision plat;

- (d) The easement contains restrictions as to what the owner may do with the property and specifically delineates what may not be done with the property. Limitations shall be consistent with the type of area protected and the applicable requirements of this Article to such areas, and may include but shall not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property;
- (e) The easement provides for the right of the easement holder to inspect the property to assure observance of restrictions and also provides for enforcement procedures;
- (f) The easement provides for the maintenance of the open space; and
- (g) The easement contains provisions governing its amendment, including provisions that the easement shall not be altered or terminated except with the express written permission of all entities having either a property right or enforcement right in the easement.

Section 508. Owner's Association.

508.01 Homeowner's Association; When Required.

For any residential development that is subdivided into two or more separate parcels, such as a single-family detached subdivision, and that contains common open space, a natural resource easement, a conservation easement or other lands or structures in common ownership, a homeowner's association that provides for building and grounds maintenance and repair, insurance and working capital shall be required.

- (a) Membership in the homeowner's association must be mandatory for each property in the development.
- (b) Such associations must also include homeowner's declaration and bylaws, including covenants, conditions and regulations applicable to each property in the development.
- (c) The declaration and bylaws shall be enforced by the Association or by an Association Management Company designated by them, which shall have the power to compel the payment of membership dues and assessments.
- (d) The homeowners' association shall be formed under the provisions of the Georgia Property Owners' Association Law (O.C.G.A. § 44-3-220, *et seq.*), and shall contain adequate provisions to qualify it as a "holder" under the Georgia Uniform Conservation Easement Law (O.C.G.A. § 44-10-1, *et seq.*) if it is to act as a holder of a conservation easement.
- (e) The documents creating the homeowner's association must provide that an adequate reserve fund for the association will exist at the time that control of the association transfers from the developer to the purchasers of homes in the development. The reserve fund must be equal to no less than two month's payment of the normal monthly dues assessment per dwelling unit established by the association, times the number of existing dwelling units.
- (f) The covenants, conditions and regulations shall, at a minimum, regulate and control the following:
 - (1) Equal access and right of use to all shared facilities;
 - (2) Perpetual and continued maintenance of open and shared space, specifically including storm water detention facilities;
 - (3) Tax liability in the case of default;

- (4) The method of assessment for dues and related costs;
 - (5) Where appropriate, party wall maintenance and restoration in the event of damage or destruction;
 - (6) Animals, including household pets;
 - (7) Signs;
 - (8) Exterior items such as fences, lawn ornaments, and landscape areas and buffers;
 - (9) Building improvements;
 - (10) Outside storage;
 - (11) Overnight parking of vehicles;
 - (12) Decorations and holiday lighting; and
 - (13) Trash collection containers.
- (g) For subdivisions, the homeowner's association must be formed and incorporated at the same time a final plat for the subdivision or any portion of the subdivision is first recorded. A copy of the proposed homeowner's association documents is to be submitted with an application for final subdivision plat approval.
- (h) For subdivisions, the homeowner's association must be formed and incorporated at the same time a final plat for the subdivision or any portion of the subdivision is first recorded. A copy of the proposed homeowner's association documents is to be submitted with an application for final subdivision plat approval.

508.02 Nonresidential Owner's Association.

For any nonresidential development that is subdivided into two or more separate parcels, such as an office park, and that contains common open space, a natural resource easement, a conservation easement or other lands or structures in common ownership, an association of the property owners that is consistent with the pertinent requirements for a homeowners' association, above, shall be required.

Article 6. Sign Regulations

Article 6 provides for the types of signs that may be placed on a property, and regulates such characteristics as their size, number, placement, and timing.

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Article 6. Sign Regulations

Section 601. Findings, Purpose and Intent.

601.01 Statement of Legislative Purpose.

- (a) The Mayor and Council recognize that signs provide an important medium through which individuals, businesses, and government may convey a variety of messages. However, left unregulated, signs can become a threat to the public health and safety as a traffic hazard, as a detriment to property values, and as an aesthetic nuisance affecting the overall economic growth of Duluth. Numerous professional studies have been prepared that examine and establish the effect of signs on traffic safety, aesthetics and economic prosperity, including the following:
 - 1. Klauer, S.G., T.A. Dingus, V.L. Neale, J.D. Sudweeks, D.J. Ramsey. "The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data." National Highway Traffic Safety Administration. DOT HS 810 594. April 2006.
 - 2. Snyder, Jonathan, Samuel S. Fels Fund. "Beyond Aesthetics: How Billboards Affect Economic Prosperity." December 2011.
 - 3. Wachtel, J., 2009. "Safety Impacts of the Emerging Digital Display Technologies for Outdoor Advertising Signs." Prepared for AASHTO and the Standing Committee on Research of the National Cooperative Highway Research Program (NCHRP), April 2009. The Veridian Group, Inc., Berkeley, California.
 - 4. Weitz, Jerry, Ph.D., AICP. "The Public Purpose of Roswell's Sign Ordinance and the Implications of Doing Without It: A Position Paper." December 7, 1999.
- (b) Based on a review of the cited materials and the studies referenced therein as well as other related studies, the Mayor and Council find that unregulated signs:
 - (1) Can be a safety hazard to drivers and pedestrians;
 - (2) Can be a detriment to the public health;
 - (3) Can hamper economic growth;
 - (4) Can lower property values;
 - (5) Can adversely impact public investments;
 - (6) Can degrade the utility of public safety signs; and
 - (7) Can adversely impact the aesthetic quality of the community and surrounding environment.

601.02 Findings of Fact.

The Mayor and Council find that:

- (a) Signs are a proper use of private property, are a means of personal free expression and a necessary component of a commercial environment. As such, signs are entitled to the protection of the law. However, an improperly regulated sign environment imposes health and safety dangers to the public;
- (b) The result of effective sign regulation will be to lessen hazardous conditions, confusion and visual clutter caused by the proliferation, improper placement, illumination and excessive height and size of signs which compete for the attention of pedestrians and vehicular traffic;

- (c) Proper regulation of signs is a necessary prerequisite to a peaceable, orderly and safely designed business environment;
- (d) Through proper regulation of signs, the aesthetic attractiveness and economic well-being of the city will be enhanced as a place to live, work and conduct business.
- (e) Concerns about aesthetic and safety issues as balanced with concerns about freedom of expression or speech are reasonably promoted in the City of Duluth by the provisions of this Article.

601.03 Purpose and Intent.

The purpose and intent of these sign regulations are:

- (a) To aid in the identification of businesses and other commercial establishments in the City for police, fire and other emergency responses, and to avoid confusion and delay in response to such emergencies;
- (b) To protect the public health, morals and welfare from the display of unconstitutionally obscene language and the advertisement of illegal activities.
- (c) To promote the mental and physical health, safety and welfare of the public by providing for the orderly and harmonious display of signs within the community;
- (d) To maintain and enhance the aesthetic environment by minimizing visual clutter, encouraging a positive visual environment, and avoiding the erection of displays which produce deleterious and injurious effects to adjacent properties and to the natural beauty of the environment;
- (e) To provide for the safety of the traveling public, both vehicular and pedestrian, by limiting distractions, hazards, and obstructions;
- (f) To maintain the City's ability to attract sources of economic development and growth and to aid in the identification of properties and enterprises for the convenience of the public;
- (g) To protect the historical character of the city;
- (h) To encourage the effective use of signs as a means for communication in the City of Duluth by allowing the maximum amount of expression or speech consistent with the compatibility of such expression or speech with other land uses and with the aesthetic and public health, safety and welfare concerns which the City of Duluth is charged by law and the Georgia Constitution with preserving and protecting;
- (i) To enable the fair and consistent enforcement of these sign regulations while supporting the policies contained in the Comprehensive Plan.

Section 602. Definitions.

For the purposes of this Article, the following words and terms shall have the meanings respectively ascribed, in addition to the definitions contained in the Interpretation and Definitions Article of this Development Code. If the same word or phrase is defined in this Article, below, and in the Interpretations and Definitions Article, the definition contained in this Article shall be taken as the correct definition and applied throughout this Development Code.

Architecturally Treated. A structure that is constructed of or covered with such materials as brick, stone, painted or treated wood, or stucco, or covered with artificial representations of such materials that are visually undistinguishable from the natural materials and have a life expectancy of at least 20 years as evidenced by a manufacturer's warranty.

Banner. See “sign, banner”.

Beacon. A stationary or revolving light which flashes or projects illumination, single color or multi-colored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of lighting device which is required or necessary under the safety regulations described by the Federal Aviation Administration or similar agencies.

Building Canopy. See under “canopy”.

Building Sign. A sign that in any manner is fastened to, projects from, or is placed upon the exterior wall, or a window, door or roof of a building. The term “building sign” includes but is not limited to the following:

- (1) **Awning Sign.** A sign imposed, mounted or painted upon an awning.
- (2) **Building Marker.** A sign composed of concrete, bronze or other permanent material which is built into the surface of the building at the time of its construction.
- (3) **Canopy Sign.** A sign imposed, mounted or painted upon a canopy, as defined herein.
- (4) **Mansard Sign.** A sign imposed, mounted or painted upon the fascia portion of a mansard roof.
- (5) **Marquee Sign.** Any sign attached flat against or upon a permanent marquee of a building.
- (6) **Projecting Sign.** A sign affixed flat to a wall and extending more than 6 inches from the surface of such wall, or any sign attached to and extending at an angle from a wall surface (usually perpendicular).
- (7) **Roof Sign.** A sign that is mounted on, applied to, or otherwise structurally supported by the roof of a building (other than the fascia portion of a mansard roof).
- (8) **Under-Canopy Sign.** A display attached to the underside of a marquee or building canopy and protruding over a pedestrian walkway.
- (9) **Wall (or Façade) Sign.** A sign that is fastened to, painted on or placed directly upon the exterior wall of a building façade or building canopy, with the sign face parallel to the wall or canopy face.
- (10) **Window Sign.** A sign that is applied, painted or placed on, behind or inside a windowpane or a glass door and intended to be viewed from outside the building.

The following are Illustrative Examples of Building Signs by Type:



Wall Sign



Wall Sign



Wall Sign



Awning Signs



Awning Sign



Building Marker



Canopy Sign



Mansard Sign



Marquee Sign



Projecting Sign



Projecting Sign



Roof (and Canopy) Sign



Under-Canopy Sign



Under-Canopy Sign



Window Sign



Window Signs

Business Park. One or more buildings located on a property in common ownership, management or operation, units of which are owned, leased or rented primarily for office, institutional or light industrial purposes.

Canopy:

- (1) **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.
- (2) **Freestanding Canopy.** A freestanding roof-like structure supported by columns intended to shield a vehicular driveway or service area from the elements.

Character Area. A portion of the city designated as any one of the various “character areas” created within the City’s Comprehensive Plan and shown as to its boundaries and extent on the Future Development Map subtitled “Character Areas” included as a part of said Plan, and as may be amended from time to time by the City Council.

Column Sign. See under “freestanding sign”.

Commercial Speech. The expression of an idea, opinion or message that directs or attracts attention to a business operated for profit; or to a product, commodity or service for sale, trade, barter, swap or lease; or to any other commercial interest or activity.

Days. The term “days” shall mean working days exclusive of holidays authorized by the Mayor and Council and weekends, unless the term is stated as “calendar days” or the context implies otherwise.

Façade. The exterior vertical surfaces of a building that comprise the front, side or rear wall.

Feather Banner. A banner mounted on a pole, such as the examples shown to the right. Such signs may be wind activated (see “sign, animated”) or rigidly mounted in a stationary position.

Festoons. Strings of light bulbs or other lighted devices, and strings of ribbons, tinsel, pennants, streamers, pin-wheels or other similar devices designed to move in the wind.

Flag. A sign made of paper, woven natural or synthetic fabric, thin plastic or similar lightweight pliable material that is normally displayed by flying from a pole as a wind-activated device, but is not otherwise defined herein as a banner, pennant or feather banner.

Fluorescent Color. A color that is intense, brilliantly colored and apparently giving off light, such as day glow (day-glo) colors.

Freestanding Canopy. See under “canopy.”

Freestanding Sign. A permanent sign which is attached to or part of a completely self-supporting structure, other than a building. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure, whether portable or stationary. The term “freestanding sign” includes but is not limited to the following:

- (1) **Pole Sign.** A sign that is mounted on one or more freestanding stanchions or columns such that the sign body is elevated above the ground by such supporting stanchions or columns,



Examples of Feather Banners

and such supporting stanchions or columns are each less than 10% of the width of the sign body.

- (2) **Column Sign.** A sign that is mounted on one or more freestanding stanchions or columns such that the sign body is elevated above the ground by such supporting stanchions or columns, and such supporting stanchions or columns are each 10% of the width of the sign body or more.
- (3) **Monument Sign.** A freestanding sign in which the entire bottom of the base of the sign structure is in contact with the ground, providing a solid and continuous background for the sign from the ground to the top of the sign structure; the base of which is as wide as or wider than the total width of the sign body plus any supporting columns.
- (4) **Hybrid Monument Sign.** A freestanding sign in which the entire bottom of the base of the sign structure is in contact with the ground, but a solid and continuous background for the sign from the ground to the top of the sign structure is not provided; the base of which is as wide as or wider than the total width of the sign body plus any supporting columns.

The following are Illustrative Examples of Freestanding Signs by Type:



Pole Sign



Pole Sign



Column Sign



Column Sign



Column Sign



Monument Sign



Monument Sign



Monument Sign



Hybrid Monument Sign

Ground Cover. Low growing, spreading plants, other than turf grass, such as but not limited to ivy, liriope, juniper, mondo grass or sedge.

Guy or Guy Wire. A cable used to support or stabilize a freestanding pole or structure, such as a lattice telecommunications or citizen's band antenna, utility pole or traffic signal stanchion.

Holiday or Seasonal Event. A day established as a legal holiday by federal, state or local law; a nationally recognized holiday such as Halloween or Mother's Day; a nationally recognized calendar season such as Fall or Spring; a religious day or term of days such as Easter, Yom Kippur or Christmas, or Lent, Ramadan or Hanukah.

Hybrid Monument Sign. See under "freestanding sign."

Illuminated Sign. See "sign, illuminated".

Incidental Sign. See "sign, incidental".

Iridescent Color. A color which varies in color when seen at different angles; having a play of lustrous rainbow-like colors; pearlescent.

Kiosk. A freestanding sign structure, often cylindrical in shape, intended to be viewed from all sides and erected for the purpose of posting signs, notices or other public announcements. Kiosks that are composed of flat faces are treated as multi-faced signs.

Landscape Materials. Any combination of living plant materials, nonliving materials (such as rocks, pebbles, wood chips, mulch and pavers) and decorative features such as sculpture, patterned walks, fountains, and pools. This definition includes synthetic landscaping materials that are visually indistinguishable from natural materials.

Leased Sign. An agreement by which a property owner conveys, usually for a specified rent, to other persons, permission to erect and maintain a sign upon their property.

LED Sign. Any sign or portion thereof that uses light emitting diode technology or other similar semiconductor technology to produce an illuminated image, picture, or message of any kind whether the image, picture, or message is moving or stationary. This type of sign includes any sign that uses LED technology of any kind, whether conventional (using discrete LEDs), surface mounted (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro polymer (OEL), or any other similar technology. An LED sign is considered to be a form of electronic changeable copy sign (see under "sign, changeable copy").

Marquee Sign. See under "building sign."

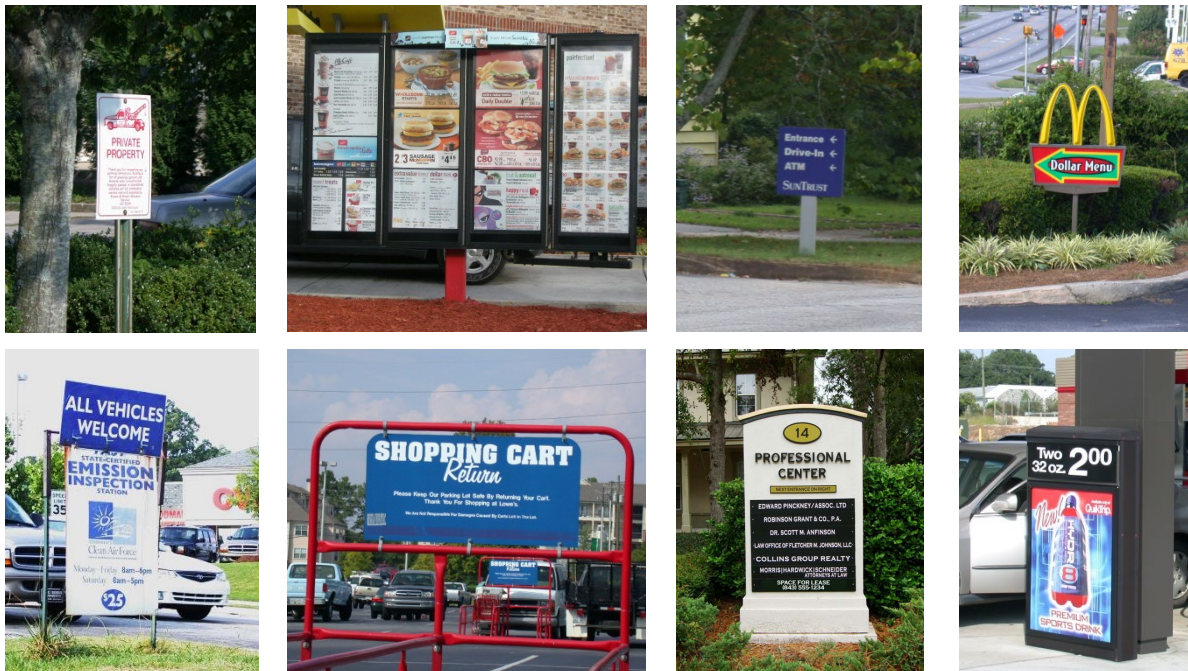
Miscellaneous Building Sign. A building sign (as defined herein), other than a principal building sign, a temporary sign or an incidental sign, commonly found on the wall of a nonresidential use property.

The following are Illustrative Examples of Miscellaneous Building Signs:



Miscellaneous Freestanding Sign. A freestanding sign, other than a freestanding principal sign, temporary sign or incidental sign, commonly found on multi-family and nonresidential use properties located at entrance and exit driveways, drive-through windows, internal driving lanes, parking lots, designated handicap parking spaces, etc.

The following are Illustrative Examples of Miscellaneous Freestanding Signs:



Monument Sign. See under “freestanding sign.”

Nonresidential Use. See “use, nonresidential.”

Parapet Wall. A building façade that extends above the eave line or edge of a roof.

Pennant. A 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” shall not include a “banner” or a “flag” as regulated by this Article.

Personal (noncommercial) Speech. The expression of an idea, opinion or message that does not direct or attract attention to a business operated for profit; or to a product, commodity or service for sale, trade, barter, swap or lease; or to any other commercial interest or activity.

Planned Center. A single office, medical, commercial or industrial property that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship. A planned center may consist of a single building, such as a shopping center, or multiple buildings, such as an office condominium center.

Pole Sign. See under “freestanding sign.”

Portable Sign. See “sign, portable”.

Principal Building. The building in which is conducted the principal use of the parcel on which it is located. Parcels with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Principal Sign. See “sign, principal”.

Project Entrance Sign. See “sign, project entrance”.

Residential Use. See “use, residential.”

Roof Sign. See under “building sign.”

Seasonal Event. See “holiday or seasonal event”.

Shopping Center. See “planned center.”

Shrub. A self-supporting woody plant that may reach a height of less than 15 feet, such as but not limited to azalea, boxwood, yew, hawthorn, hydrangea, holly, nandina or camellia.

Sign. Any structure, device, object, design or display that is used or intended to be used to attract the attention of or to convey information to the public, and that is placed in such a way, whether out of doors or inside or near a window, as to be in the view of the general public from the exterior of any building on the property.



A Parapet Wall

Sign, A-frame, Sidewalk or Sandwich. A temporary, movable sign not secured or attached to the ground or surface upon which it is located. This type of sign is typically “A” shaped or in some variation thereof and which is usually double sided. This includes a sign displayed on an easel.

Sign, Aggregate Area. The combined sign area of all sign faces of a particular category on a single parcel. For example the aggregate sign area of all free-standing signs on a parcel is the sum total of the sign face areas of all freestanding signs on such parcel.

Sign, Animated. A sign that has moving parts or includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs using electronic ink, signs set in motion by wind or by mechanical means such as the blowing of air or motorized parts, or made up of a series of sections that turn, including any type of screen using animated or scrolling displays such as an LED (light emitting diode) screen or any other type of video display.

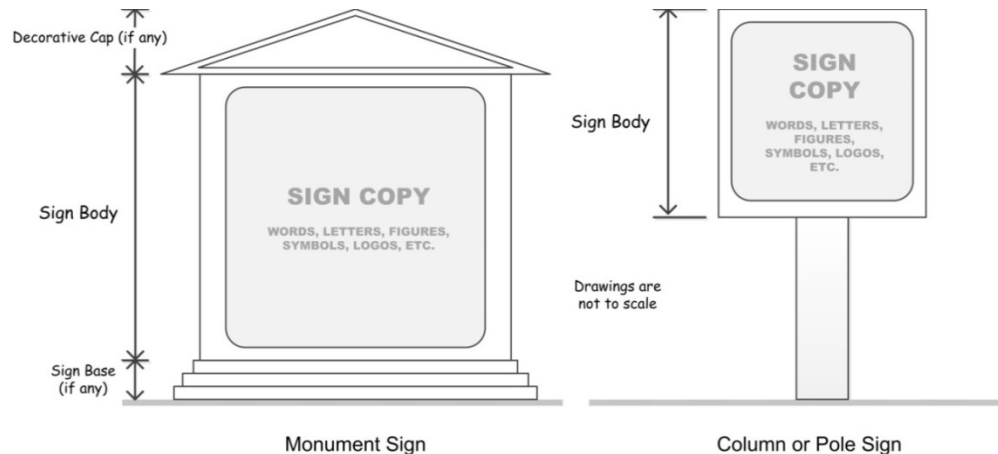
Sign, Banner. A sign of fabric, thin plastic or similar lightweight material that is mounted to a pole or a building at one or more edges and is intended or displayed as commercial speech. Flags displaying noncommercial speech shall not be considered to be banners.

Sign, Billboard. Any monument sign erected on undeveloped property.

Sign Body. That portion of a sign structure that is intended or designed primarily to support or display the sign face, exclusive of the sign’s base or decorative cap, if any.



A-Frame Sign



Sign, Building Marker. See under “building sign”.

Sign, Canopy. See under “building sign”.

Sign, Changeable Copy. A type of animated sign that is capable of changing the position or format of word messages or other displays on the sign face or change the visible display of words, numbers, symbols and graphics by the use of a matrix of electric lamps, movable discs, movable panels, light apertures or other methods, provided these changes are actuated by either a control mechanism or manually on the face of the sign. Changeable copy signs include the following types:

- (1) **Manually activated:** A sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered by placing such letters or other message elements directly on the sign face by hand.
- (2) **Electronic:** A sign whose alphabetic, pictographic, or symbolic informational content can be changed and is displayed electrically or electronically. See also “LED sign”.

Sign, Channeled Letter. Signs that have their letters cut out of the sign face or raised above the sign face, described as:

- (1) **Internally channeled letters:** Letters or other symbols cut into a sign face and located above a recessed background surface, often designed for the background surface to be illuminated by an artificial light source.
- (2) **Reverse channeled letters:** Letters or other symbols raised above a background surface designed to be illuminated from behind and within the letters or symbols by an artificial light source.



Sign Copy. The words, letters, figures, symbols, logos, fixtures, colors or other design elements that are used to convey the message, idea or intent for which a sign has been erected or placed.

Sign, Dilapidated/Deteriorated. A sign that is structurally unsound, has defective parts, or is in need of painting or other maintenance.

Sign, Double-Faced. 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 and the two sign faces are separated from each other at their nearest point by no more than 12 inches. Sign faces or sign modules on a single sign structure that are separated by more than 12 inches are treated as separate signs.

Sign Face. That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign, Flag. See “flag”.

Sign, Height. The vertical distance from the ground to the highest point of the sign structure, as measured from the adjacent finished grade at the base of the sign.

Sign, Illuminated. Any sign or portion thereof which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign, and shall also include signs with reflectors that depend upon sunlight or automobile headlights for an image.

- (1) **Direct or Internal Illumination.** A sign illuminated by an internal source.
- (2) **Indirect or External Illumination.** A sign illuminated by an external light source directed primarily toward such sign.

Sign, Incidental. A small sign, emblem or decal no larger than 1½ square feet in area. Such signs are normally located on doors, windows and gas pumps, or in parking lots or loading areas, may be free-standing or building signs, and are generally not readily visible or legible from public rights-of-way.

The following are Illustrative Examples of Incidental Signs:



Sign, Inflatable. A sign that is either expanded to its full dimensions through mechanical means of an air blower or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.

Sign, Kiosk. See “kiosk”.

Sign, Marquee. See under “building sign”.

Sign, Mobile. See “vehicular sign”.

Sign Module. Each portion or unit of a sign face that is clearly separable from other such units by virtue of its individual or independent construction or framing.

Sign, Monument. See under “freestanding sign”.

Sign, Multi-Faced. A single freestanding sign structure consisting of two sign faces (see “double-faced sign”) or three or more sign faces that are separated from each other at their nearest point by no more than 12 inches. Sign faces or sign modules on a single sign structure that are separated by more than 12 inches are treated as separate signs.

Sign, Neon. An illuminated sign containing a glass tube filled with neon or phosphors, which is bent to form letters, symbols or other shapes, or otherwise used to highlight, decorate or outline the sign.

Sign, Nonconforming. A sign legally existing at the time of its placement or erection that could not have been approved under the terms of this Article.

Sign, Permanent. Any sign that is securely affixed to the ground or to a building and not readily removable. Temporary signs are not considered to be permanent signs.

Sign, Pole. See under “freestanding sign”.

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include, but are not limited to, signs mounted upon a trailer, bench, wheeled carrier or other non-motorized mobile structure with or without wheels. See also “sign, a-frame, sidewalk or sandwich”.

Sign, Principal. The main, most prominent or largest freestanding or building sign on a property’s street frontage or principal building, other than a project entrance sign as defined in this Article. Such signs are of permanent construction and not placed as temporary signage.

Sign, Prohibited. Any sign, other than a non-conforming sign, not conforming to this Article.

Sign, Project Entrance. A permanent freestanding sign located at an entrance designed and permitted for vehicular access into a multi-family development, or into a development containing multiple lots, such as but not limited to a particular single-family residential subdivision, a townhouse condominium subdivision, or a commercial subdivision such as an office park or industrial park where buildings are located on separate lots.

The following are Illustrative Examples of Project Entrance Signs:



Sign, Projecting. See under “building sign”.

Sign, Roof. See under “building sign”.

Sign, Temporary. Any sign, the use of which is short-term in nature, that is affixed to or placed on the ground or to a building but is readily removable and not intended for permanent installation.

Sign, Under Canopy. See under “building sign”.

Sign, Wall. See under “building sign”.

Subtenant. A natural person, business or other entity that subleases or is otherwise allowed to occupy a portion of land or a building, the majority of which is also occupied by a tenant. For the purposes of this Development Code, a subtenant is not treated as a “tenant” as defined herein.

Tenant. A natural person, business or other entity that occupies land or buildings by ownership, under a lease, through payment of rent, or at will; the primary occupant, inhabitant, or dweller of a place. See also “subtenant”.

Tenant Frontage. The horizontal distance in feet between the walls that delimit an exterior façade of a tenant space. A “tenant space” may be a stand-alone building with a single occupant, or a portion of a planned center that is separated from all other tenant spaces for occupancy by a single tenant.

Use, Nonresidential. A principal use that is a business engaged in the sale of goods or the provision of personal, professional, business, entertainment or other services; an institutional or nonprofit organization; a business engaged in the fabrication, manufacture or production of durable or non-durable goods; an activity for the administration or support of a business or organization; or a place of lodging for the travelling public, such as a hotel, motel or bed and breakfast.

Use, Residential. A principal use that is intended for occupancy by an owner or lessee as their permanent place of abode.

Vehicular Sign. Any sign placed, mounted, painted on or affixed to a motor vehicle or to a freight, flat-bed or storage trailer or other conveyance, whether motorized or drawn.

The following are Illustrative Examples of Vehicular Signs:



Wall Sign. See under “building sign.”

Window Sign. See under “building sign.”

Section 603. Applicability.**603.01 Signs that are Regulated.**

The regulations and requirements of this Article apply to all signs that are or are intended to be viewed from a public right-of-way or adjacent property, or that are intended to be viewed from outdoor areas of private property, except as otherwise exempt under this Section.

603.02 Signs that are Exempt from Permitting Requirements.

The following signs are exempt from the permitting requirements of this Article; provided, however, that all such signs must meet the setback requirements of this Article and shall not be located within any public right-of-way or within any Visibility Clearance Area set forth in Section 604.08.

- (a) Signs erected by or at the direction of the City or any government entity in the right-of-way or on any government owned parcel are exempt from provisions of this Article.
- (b) Historic markers authorized by the City are exempt.
- (c) Property address numbers as required by the City are considered “official governmental signs” and are exempt.
- (d) Incidental signs (as defined in this Development Code) that are located in conjunction with a multi-family or nonresidential use are exempt, provided such signs are not illuminated and that the aggregate of all such signs on a property may not exceed 9 square feet (unless a larger aggregate area is required by law or government regulation).
- (e) Displays or decorations related to a holiday or seasonal event (as defined in this Development Code) that are placed on a property by the owner or with the owner’s permission as personal (noncommercial) speech (also as defined in this Development Code) are exempt.
- (f) Signs containing a non-commercial message with a maximum total sign face area not to exceed sixteen (16) square feet per lot and a maximum height of four (4) feet per sign.
- (g) Signs located on property which is listed for sale or lease with a total maximum area of sixteen (16) square feet per lot and a maximum height of four (4) feet per sign.
- (h) Window displays of goods available on a site are not considered to be signs and are exempt from these sign regulations.
- (i) A building design or color 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 sign regulations.

603.03 Signs that are Prohibited.

The following signs are prohibited to the extent noted.

- (a) All signs, other than legal non-conforming signs, which are not in compliance with this Article are prohibited and illegal and shall not be erected or maintained.
- (b) Privately owned signs erected on or above public property.
 - (1) No person shall erect a sign on or projecting over public property other than the governmental entity responsible for such property, or a public utility company or contractor occupying or working on public property pursuant to government contract or franchise.

- (2) For the purpose of this Article the public right-of-way shall be measured and determined by the utility poles, unless otherwise indicated or more detailed information is available.
- (c) Any sign placed or erected on a property without the permission of the property owner.
- (d) Roof signs, as defined in this Development Code.
- (e) Vehicular signs, as defined in this Article, are not allowed to be placed or parked in such a manner as to be viewed or intended to be viewed from a public right-of-way, except that this prohibition shall not apply in the following circumstances:
 - (1) When such conveyances are actively being used to transport persons, goods or services in the normal course of business;
 - (2) When such conveyances are parked in an inconspicuous area; or
 - (3) When 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.
- (f) Animated signs, except electronic changeable copy signs, banners and flags as may be regulated by this Article, are not allowed.
- (g) Signs that pose a threat to public safety are not allowed, such as:
 - (1) Signs containing or imitating an official traffic sign or signal or contain the words “stop”, “go”, “danger”, “caution”, “warning”, or similar words, except for construction signs and barricades and except when the words are incorporated in the permanent name of a business.
 - (2) Signs that display intermittent or blinking lights resembling the flashing lights customarily used in traffic signals or on police, fire, ambulance or rescue vehicles.
 - (3) Signs located so as to obscure, or otherwise interfere with the effectiveness of any official traffic sign, signal or device.
 - (4) Signs located so as to obscure, or otherwise interfere with a motor vehicle operator’s view of approaching, merging, or intersecting traffic.
 - (5) Signs that obstruct any fire escape; any means of ingress, egress, or ventilation; or prevent free passage from one part of a roof to any other part thereto; and signs attached in any manner to a fire escape.
- (h) Hand written, hand painted, handmade or other unprofessionally fabricated signs. A “professionally” hand-painted sign is one that has been prepared or created by a person engaged in the paid occupation of sign-painting and generally reproduces font sets created by such foundries as Adobe, Microsoft, BitStream, etc.

The following are illustrative examples of “professionally” hand-painted signs that would not be prohibited:



- (i) Signs located on courtesy benches, waste containers, trashcans and similar devices.
- (j) Pole signs and column signs, except historic pole signs allowed under Section 605.04(b)(1).
- (k) Signs displaying words, characters, and/or illustrations of an obscene, indecent or immoral nature as defined by the Code of Ordinances of the City of Duluth or as defined by the State of Georgia at O.C.G.A. Section 16-12-80 (b), or displaying nudity as defined by the State of Georgia at O.C.G.A. Section 16-12-81 (b)(1).
- (l) Signs that advertise or encourage illegal activity as defined by local, state or federal laws.
- (m) Unshielded illuminated devices that produce glare or create a hazard or nuisance to motorists or occupants of adjacent properties.
- (n) A sign that emits or utilizes 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, particles or odor.
- (o) Signs with lighting or control mechanisms that cause radio, television or other communications interference.
- (p) Motion picture mechanisms or video displays used in such a manner as to permit or allow moving or animated images to be visible from a public right-of-way or sidewalk.
- (q) Certain illuminated signs, as follows:
 - (1) Signs containing, including, or illuminated by any flashing, intermittent, or moving lights, scrolling lights, and/or utilizing changes in the intensity of lighting are prohibited.
 - (2) Any illumination of a sign that interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal is prohibited.
 - (3) Any illumination of a sign that is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of a street and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with the operation of any motor vehicle, is prohibited.
 - (4) No red, green or yellow illuminated sign shall be placed within 300 feet of any traffic light.
 - (5) Search lights or spotlights, except for special business promotions or a new business "grand opening". For each event, such devices shall receive prior written approval through issuance of a Temporary Sign Permit by the City, along with written consent from the Gwinnett County Airport Authority. Such lights shall not create a nuisance or interfere with vehicular traffic, and shall adhere to all applicable regulations of the Federal Aviation Administration (FAA).

- (r) Banners except as allowed by this Article for specific types of signs, including temporary signage under Section 609.06.
- (s) Portable signs, except A-frame signs as may be allowed under this Article for a nonresidential use, or as provided for temporary signage under Section 609.06 of this Article.
- (t) Festoons, as defined in this Development Code, except as provided for temporary signage under Section 609.06 of this Article.
- (u) Inflatable signs, including air or gas filled balloons or other inflatable devices, are prohibited except as exempted as seasonal and holiday decorations under Section 603.02(e) of this Article or as provided for temporary signage under Section 609.06 of this Article.

Section 604. Requirements that Apply to Signs in General.

604.01 Compliance with Other Codes and Provisions.

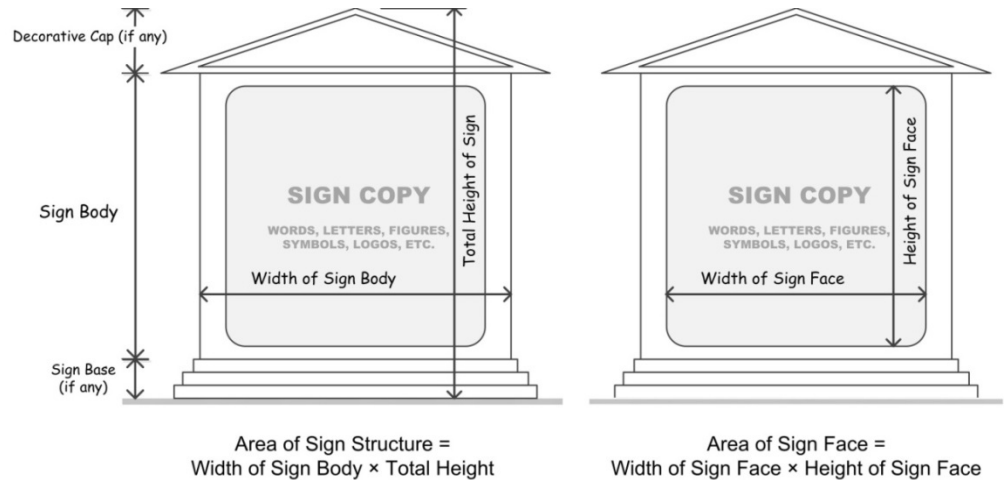
- (a) Any sign that will be erected, replaced, reconstructed, repaired, altered, relocated or maintained within the city shall conform to the requirements of the International Building Code, Appendix H, and to the requirements of the National Electrical Code, Article 600, "Electrical Signs and Outdoor Lighting," as adopted with amendments by the State of Georgia. Where the provisions of the building or electrical code and this Article conflict or overlap, the most stringent requirement shall prevail and be controlling.
- (b) In accordance with the National Electrical Code specifications, all signs shall be located in such a way that they maintain horizontal and vertical clearance from all overhead utilities. In no case shall any sign be installed within 3 feet horizontally or vertically from any overhead utility line or utility guy wire.
- (c) Any sign that will be erected, replaced, reconstructed, repaired, altered or relocated within the city shall conform to all other provisions of this Unified Development Code and other ordinances of the City of Duluth. In the event of conflict between the provisions of this Article and other articles of this Development Code or City ordinances, the most stringent requirements shall prevail and be controlling.

604.02 Computation of Sign Area.

- (a) Generally.
 - (1) The area of a sign face or module shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem, color, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets other regulations of the City and is clearly incidental to the display itself.
 - (2) If a sign face is composed of two or more sign modules, the sign face area shall be the area of each module, measured in accordance with the preceding paragraph (1), totaled together.
 - (3) The area of a sign structure shall be computed by means of the smallest rectangle that will encompass the extreme limits of the sign, by multiplying:
 - a. The width of the body of the sign (exclusive of the sign's base or decorative cap, if any) measured at the widest portion of the sign body; times

b. The total height of the sign as defined in this Article under “sign height.”

- (4) The following are examples of how sign structure and sign face area measurements are made; the signs shown are illustrative and only provided for clarity.



(b) Area of Multi-Faced Signs.

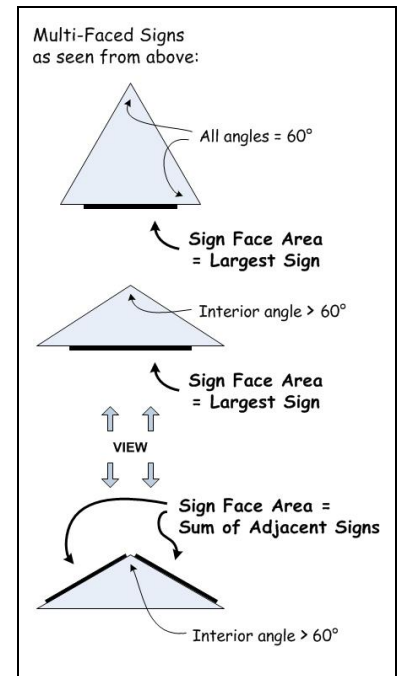
The sign face area of a sign structure with more than one side, and such sides are not more than 12 inches apart at their closest point, shall be computed as follows:

(1) Double-faced signs.

For double-faced signs, when the sign face surfaces are parallel (back-to-back), or where the smallest angle formed between the two faces is 60 degrees or less, the area of the sign shall be taken as the area of the largest side. For double-faced signs where the interior angle formed by the faces is more than 60 degrees, the sign face area shall be the total area of both sides.

(2) Signs with three or more faces.

- For sign structures having only three sides and the interior angle formed between each of the sides is 60 degrees, the sign face area shall be taken as the area of the largest of the three sides.
- For all other multi-faced signs with three or more sides, the sign face area shall be either the largest sign on any one side, or the largest total of all sign faces that are joined by an interior angle of more than 60 degrees, whichever can be viewed from an adjoining street.

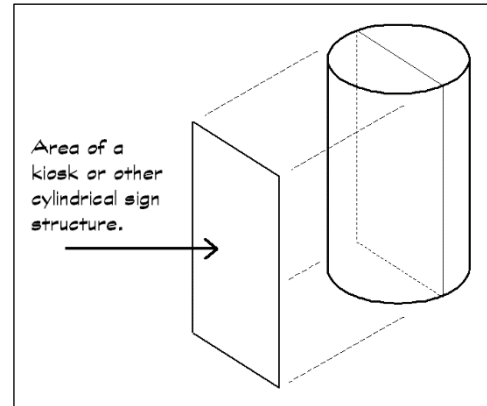
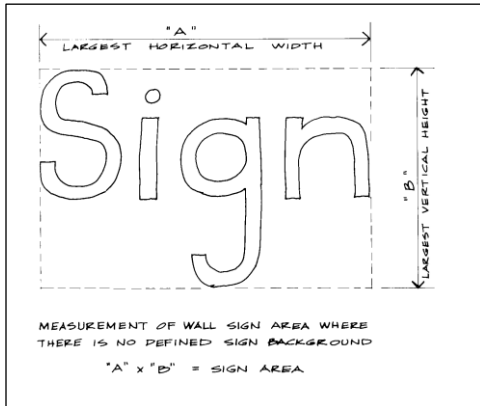


Sign Face Area
Three-sided Sign Structures

(c) Free-Form Signs.

For signs that have no identifiable frame or border, the smallest rectangle that includes all of the sign's words, letters, figures, symbols, logos, fixtures, colors or other design elements intended to convey the sign's message shall establish the area of the sign face.

Free-Form Sign



Kiosk Sign

(d) Kiosks.

For a kiosk or other cylindrical sign structure, the area of the sign face shall be the largest measurement achieved from any view of the sign structure. Measurements shall be made as a flat plane rectangle projected on or bisecting the sign structure.

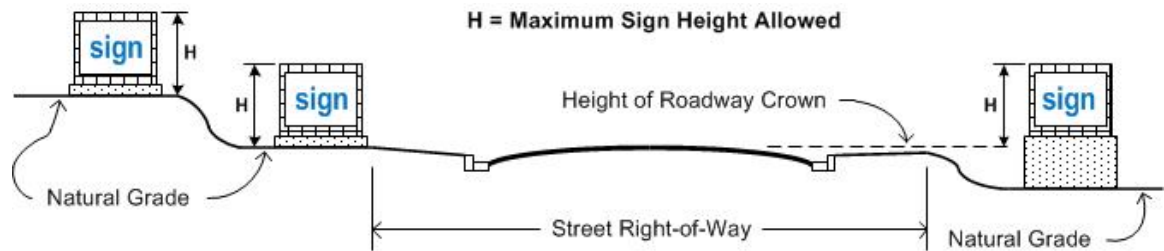
604.03 Number of Signs.

- (a) For the purpose of determining number of signs, a single sign shall be considered to be a single sign structure, display surface or display device containing the sign copy (as defined in this Development Code) or other elements organized, related, and composed to form a unit.
- (b) Refer to the definition of "sign face" and "sign copy" for additional information.

604.04 Height Measurements.

- (a) For a freestanding sign structure located within 100 feet of an adjacent street right-of-way (as measured perpendicular to the street), the following applies:
 - (1) For a sign located on land at or above the crown of the roadway in the adjacent street, the height of a sign shall be equal to the vertical distance from the average grade at the base of the sign to the highest point of any portion of the sign. Any earthen berms or other site improvements that raise the sign above the pre-construction natural grade of the land upon which the sign is placed shall be included in the height measurement of the sign.
 - (2) For a sign located on land below the crown of the roadway in the adjacent street, the height of a sign shall be equal to the vertical distance from the crown of the roadway to the highest point of any portion of the sign. Any earthen berms, elevated foundations or other site improvements that raise the sign up to the level of the crown of the roadway shall not be included in the height measurement of the sign.

- (b) For a freestanding sign structure located 100 feet or more from an adjacent street right-of-way (as measured perpendicular to the street), the height of a sign shall be equal to the vertical distance from the average grade at the base of the sign to the highest point of any portion of the



Examples of Sign Height Measurements

sign. Any earthen berms or other site improvements that raise the sign above the pre-construction natural grade of the land upon which the sign is placed shall be included in the height measurement of the sign.

604.05 Lighting Restrictions.

In addition to illuminated signs that are prohibited under Section 603.03, the following applies to all illumination of signs:

- Only permanent signs shall be illuminated, either directly or indirectly.
- A permit will not be issued for an illuminated sign on a nonresidential property within 100 feet from any property line of a residentially zoned parcel.
- In a residential zoning district only project entrance signs may be illuminated, and such signs may only be illuminated indirectly by an external light source, such as floodlights or shielded neon tubes.
- Any signage with internal lighting composed of light bulbs or neon tubing shall be covered so that the light sources are not directly visible from the outside.

604.06 Construction and Maintenance.

- All signs shall be constructed and maintained in conformance with the Duluth Building Code.
- The City may, at its discretion, require certification to confirm that the structural requirements of the City's codes are met.
- All signs, together with their supports, braces, guys and anchors, shall be kept in good repair and unless constructed of galvanized or non-corroding metal, shall be given a protective coating as necessary to maintain a clean appearance and safe condition.

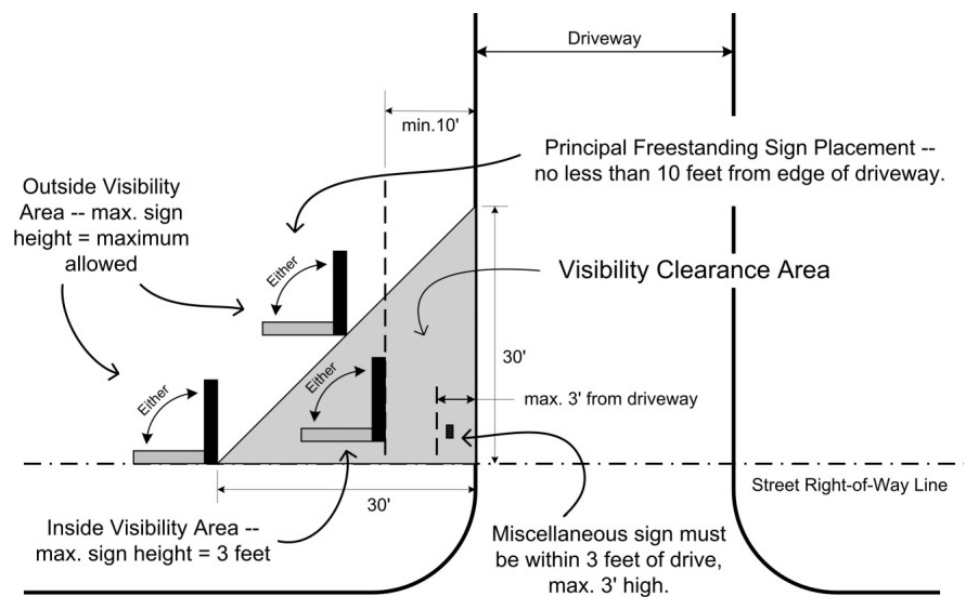
604.07 Language and Legibility.

- Every principal freestanding sign shall contain the street number and the official street name in English letters and Arabic numbers of a size equivalent to the predominant size of the letters and numbers on the sign.
- To aid in proper and timely response in an emergency, the name of the business or the type of business on the premises must also be indicated in English.

- (c) Nothing in this section shall prohibit the same and/or additional information on the sign from being written in a language other than English, provided that an English translation of the sign is included with the application for a sign permit in accordance with Section 610.03(d).

604.08 Visibility Clearance Area.

- (a) No sign more than 3 feet in height shall be erected within 30 feet of an intersection with a public or private street, private drive or other access point, or otherwise interfere with traffic movement and visibility.
- (b) Such visibility clearance area shall be established as the triangular area formed by the street right-of-way lines (or such lines extended to their intersection) and a line connecting such right-of-way lines at points 30 feet from the intersection of the right-of-way lines, or within 30 feet of the intersection of a street right-of-way line and the edge of a driveway.



Visibility Clearance Area and Sign Height Restrictions at a Driveway Entrance

604.09 Electronic Changeable Copy Signs.

Electronic changeable copy signs, as defined in this Development Code, regardless of the technology employed, must conform to the following standards:

- (a) All electronic changeable copy signs viewable from a public street or sidewalk shall present only static displays (still pictures and printing). Such signs not viewable from a public street or sidewalk may display movies, animation or video containing motion.
- (b) Each static image shall be maintained for a duration of at least 8 seconds. The change time between each static image shall be perceived as instantaneous within the capability of the technology employed (generally about 1/10th of a second).
- (c) For signs viewable from a public street or sidewalk, no flashing, scrolling, or other variation in the static image that gives an illusion of movement or variation in light intensity during the display of a single image is allowed.

(d) LED signs.

In addition to all other requirements of this Section 604.09 and this Article, LED signs (as defined in this Development Code) must comply with the following:

- (1) All such signs shall be “tri-color” signs or better, in which each pixel consists of a group of at least one red, green and blue LED or similar light emitting device.
- (2) Maximum distances between pixels shall be as follows:
 - a. For building signs, no more than 10 mm between pixels, measured center-to-center both horizontally and vertically.
 - b. For freestanding signs (including billboards as defined in this Development Code), no more than 16 mm between pixels, measured center-to-center both horizontally and vertically.
- (3) All such signs shall be certified by a Nationally Recognized Testing Laboratory (NRTL) recognized by the US Occupational Safety & Health Administration (OSHA) in accordance with 29 C.F.R. 1910.7.
- (4) Maximum brightness.
 - a. The sign must employ a light sensing device that adjusts the brightness as ambient light conditions change.
 - b. The sign shall not operate at a brightness level of more than 0.30 foot candles above ambient light levels measured at 100 feet from the sign (150 feet for sign faces greater than 100 square feet in area), as certified under paragraph (f) below.
- (5) A fail safe device shall be installed that, in the event of a failure of the light sensing device, drops the brightness level to the lowest night-time level allowed, regardless of the time of day.

(e) Other electronic changeable copy signs.

- (1) Electronic changeable copy signs utilizing TV-type displays (LCD or Plasma, for instance) must comply with the following in addition to all other applicable requirements of this Section 604.09 and this Article:
 - a. Such signs shall be installed only as building signs.
 - b. Such signs shall have a minimum resolution of 1080p (High Definition) or equivalent.
 - c. At any time of the day or night, such signs shall not operate at a brightness level of more than 0.30 foot candles above ambient light levels measured at 100 feet from the sign (150 feet for sign faces greater than 100 square feet in area), as certified under paragraph (f) below.
 - (2) Electronic changeable copy signs utilizing incandescent bulbs are not allowed.
- (f) As part of an application for a sign permit, the sign owner must provide the City with a written statement from the installer that the sign will comply with the City’s brightness requirements and all other requirements of this Section 604.09, and shall certify to such compliance within 30 days after installation of the sign.

- (g) Operation of an electronic changeable copy sign in violation of any provision of this Section 604.09, including overriding the sign's light-sensing or fail-safe devices, may result in the disconnection of the electrical power supply to the sign at the owner's expense, under the procedures of Section 614.

Section 605. Regulation of Principal Freestanding and Principal Building Signs.

605.01 Applicability.

- (a) This Section applies only to principal signs, as defined in this Development Code, that are permanent and freestanding on a property or attached to a building, and that are not otherwise exempt from these Sign Regulations.
- (b) Additional signage that is regulated on a property include:
 - (1) Project entrance signs, under Section 606;
 - (2) Miscellaneous freestanding signs, miscellaneous building signs, and other types of specific signs enumerated under Section 608; and,
 - (3) Temporary signs, under Section 609.

- (c) Signs in planned development districts.

For signs located within a project zoned as a Planned Development District, each property or individual project within the planned development shall conform to the sign regulations established as part of the zoning approval for the planned development. If no such provisions are included in the zoning approval of the planned development, each property or individual development within a planned development shall conform to the provisions of this Article in accordance with the land use of said property (or the predominant use of the ground floor in the case of a mixed-use building).

- (d) Signs for mixed-use buildings.

For buildings that are occupied or designed for occupancy by both residential and nonresidential uses, the signage regulations that apply shall be based on the predominant use of the ground floor of the building.

605.02 Principal Signs—Residential Use Property.

All principal freestanding and principal building signs erected or placed on a property or development occupied by a single-family or multi-family residential use shall comply with the following provisions:

- (a) Principal freestanding signs on individual properties are not allowed. Project entrance signs are allowed in lieu of principal freestanding signs for single-family and multi-family developments. See Section 606.
- (b) In all residential zoning districts, one building sign per housing unit is allowed. These signs shall not exceed one square foot in sign face area. If affixed to a multi-tenant building in an RM district or property zoned for multi-family purposes, the building sign shall not exceed 4 square feet in size.
- (c) A single-family detached home, townhouse condominium or manufactured home, located on an individual lot, must comply with the provisions of this Section and Table 6-A under "single-family residence".

- (d) Multi-family developments, such as apartments, condominiums, manufactured home parks, nursing homes and other residential developments occupying a single property in common, must comply with the provisions of this Section and Table 6-A under “multi-family developments”.
- (e) Other (non-principal) signage allowed.
 - (1) For other permanent freestanding signage allowed within a multi-family development, see Section 608.01 regarding miscellaneous freestanding signs.
 - (2) For temporary signage on any residential property, see Section 609.

Table 6-A: Principal Freestanding and Building Signs—Residential Uses

	Single-Family Residence ¹	Multi-Family Developments ²
Principal Freestanding Signs		
Max. number of Principal Free-standing Signs	None ³	None ⁴
Principal Building Signs		
Number of Building Signs (wall or window signs)	1 per housing unit	1 per housing unit, 1 per multi-family building
Maximum sign face area of Building Signs	1 sq. ft. per housing unit	1 sq. ft. for each housing unit, 4 sq. ft. per multi-family building
Max. percent coverage if placed in Window	Covering no more than 20% of window	Covering no more than 20% of window
Sign Characteristics		
Animated	Not allowed	Not allowed
Changeable Copy Sign—Manual	Not allowed	Not allowed
Changeable Copy Sign—Electronic	Not allowed	Not allowed
Illumination, internal	Not allowed	Not allowed
Illumination, external	Not allowed	Not allowed
Illumination, exposed bulbs or neon	Not allowed	Not allowed

¹ Includes one-family dwellings, townhouses and manufactured homes on individual lots.

² Includes all residential developments occupying a single property in common, such as apartments, condominiums, manufactured home parks, and nursing homes.

³ Principal freestanding signs are not allowed on a single-family residential lot. (See, however, Temporary Signs, under Section 609.) Principal freestanding signs on a single-family development are limited to Project Entrance Signs (see Section 606).

⁴ Principal freestanding signs on a multi-family development are limited to Project Entrance Signs (see Section 606). For other freestanding signs allowed on a multi-family development property, see Miscellaneous Freestanding Signs under Section 608.01 and Temporary Signs, under Section 609.

605.03 Principal Signs—Nonresidential Use Property.

All principal freestanding and principal building signs erected or placed on a property or development occupied by a nonresidential use⁵ shall comply with the following provisions:

(a) Principal freestanding signs.

Principal freestanding signs on a property shall comply with the provisions of this Section and the restrictions for such signs as shown on Table 6-B for the zoning applicable to the property.

(1) Type of freestanding signs allowed.

Principal freestanding signs on nonresidential use properties shall be monument or hybrid monument signs (as defined in this Development Code). All such signs shall be mounted on a base constructed of the same material matching the façade of the principal use (brick, stone, stucco or wood) or similar quality, color and texture as the primary masonry materials used in the exterior finish of the primary structure on the site. The accent materials may be approved by the Planning and Development Director on a case-by-case basis.

(2) Joint signs.

Multiple businesses in a planned center on a single parcel shall share the number of freestanding signs allowed on the parcel as joint signs.

(3) Any principal freestanding sign located within a parking lot or other area accessible by vehicles shall be surrounded by protective curbing, the area within which shall be landscaped in accordance with the requirements of Section 607.01. No freestanding sign shall be permitted to encroach in a parking area to such extent that the remaining parking spaces fail to meet the standards of this Development Code for off-street parking.

(4) Freestanding sign faces shall be mounted on architecturally treated sign structures.

(5) A principal freestanding sign must be set back at least 10 feet from the edge of any entrance driveway providing direct access from a street. This setback shall not apply to any parking lot spaces, parking lot aisle or internal drive on the property. See also Section 604.08 regarding height limitations within the Visibility Clearance Area.

(6) Land-locked properties.

- a. Places of business within nonresidential zoning districts that do not own road frontage, may be granted approval of a principal freestanding sign on or near the access easement to their business provided written permission is obtained from the property owner.
- b. Multiple buildings or properties served by a common access easement shall share one joint sign at the road frontage as described in Paragraph (2) above. The Planning and Development Director may allow one principal freestanding sign serving multiple parcels that share the same access easement.

⁵ Nonresidential uses include commercial retail and service establishments, professional and other offices, motels, institutional uses such as fraternal organizations and places of worship, industries, and storage and transfer warehouses, and others as defined in this Development Code.

(b) Principal building signs.

Principal building signs on a nonresidential property shall comply with the provisions of this Subsection and the restrictions for such signs shown on Table 6-B for the use applicable to the property.

(1) Wall, projecting or canopy signs.

- a. Wall or projecting signs shall not extend above the parapet wall of a building or eave line of a pitched roof.
- b. Canopy sign, projecting sign and wall sign requirements shall be interchangeable; all such signs are regulated collectively as “building signs”.

(2) Window signs coverage.

Window signs are collectively allowed to cover up to 20% of the total area of all windows and glass doors, per tenant façade. Window signs are allowed in all non-residential zoning districts except the O-N zoning district.

Table 6-B: Principal Freestanding and Building Signs—Nonresidential Uses

	Property Zoned O-N (Office-Neighborhood)	All Other Nonresidential Properties ⁶	
		One or Two Tenants ⁷	Three or More Tenants
Principal Freestanding Signs			
Max. number of Principal Freestanding Signs	1 per property	1 per street frontage	1 per street frontage
1 street frontage:			
Max. area of Principal Freestanding Sign face	24 sq. ft.	50 sq. ft.	1 sq. ft. per linear foot of frontage, up to a maximum of 150 sq. ft.
Max. height of sign	8 ft.	8 ft.	15 ft.
2 street frontages:			
Max. area of Principal Freestanding Sign face	24 sq. ft.	100 sq. ft. total for both signs (max. 1 sign 64 sq. ft.)	Each sign: 1 sq. ft. per linear foot of frontage, up to a maximum of 150 sq. ft.
Max. height of signs	8 ft.	12 ft.	15 ft.
Min. setback from street right-of-way line ⁸	0 ft.	0 ft.	0 ft.
Monument sign allowed	Yes	Yes	Yes
Hybrid monument sign allowed	Yes	Yes	Yes
Column sign allowed	No	No	No
Pole sign allowed	No	No	No
Changeable Copy Sign allowed on Freestanding Sign	No	Yes, manually activated or electronic	Yes, manually activated or electronic

⁶ See Adjustments, below.⁷ “Tenant” as defined in this Development Code: A natural person, business or other entity that occupies land or buildings by ownership, under a lease, through payment of rent, or at will; an occupant, inhabitant, or dweller of a place. Subtenants are not considered “tenants” for the purposes of this Article.⁸ See the Visibility Clearance Area setback requirements under Section 604.08.

Table 6-B: Principal Freestanding and Building Signs—Nonresidential Uses

	Property Zoned O-N (Office-Neighborhood)	All Other Nonresidential Properties ⁶	
		One or Two Tenants ⁷	Three or More Tenants
Principal Building Signs			
Max. number of Principal Building Signs	1	1 per 300 linear feet of tenant frontage, per façade	1 per tenant frontage, per façade
Max. area of sign face	10 sq. ft.	The greater of 2 sq. ft. per linear foot of tenant frontage, or 20% of each tenant's facade	The greater of 2 sq. ft. per linear foot of tenant frontage, or 20% of each tenant's facade
Max. percent coverage if placed in Window	Not allowed	Covering no more than 50% of total window and glass door area per facade	Covering no more than 50% of total window and glass door area per facade
Changeable Copy Sign allowed on Building		Yes, manually activated only	Yes, manually activated only
Sign Characteristics			
Animated	Not allowed	Not allowed	Not allowed
Illumination, internal	Not allowed	Yes, with restrictions ⁹	Yes, with restrictions ⁹
Illumination, external	Not allowed	Yes	Yes
Illumination, exposed bulbs or neon	Not allowed	Not allowed	Not allowed

605.04 Adjustments.

The maximum size of certain principal signs may be increased, or the sign restrictions otherwise modified, under any one of the following circumstances.

(a) Property Adjacent to a Major Roadway.

- (1) The following thoroughfares are established as “major roadways” in the City’s Comprehensive Plan: Peachtree Industrial Boulevard, US 23/SR 13 (Buford Highway), SR 120 (Duluth Highway/Abbotts Bridge Road), and Pleasant Hill Road.
- (2) For nonresidential uses fronting on any of these major roadways, the following adjustments are allowed for each principal freestanding sign on the property:

⁹ See Sections 603.03(q) and 604.06.

Table 6-C: Major Roadway Adjustment

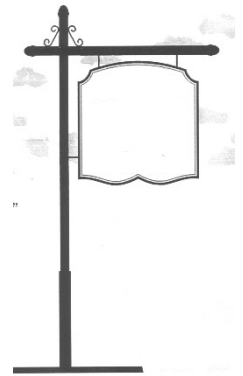
Posted Speed Limit		Nonresidential Properties Not Zoned O-N	
		One or Two Tenants	Three or More Tenants
35 mph (No increase)	Max. area of sign face	50 sq. ft.	1 sq. ft. per linear foot of frontage, up to a maximum of 150 sq. ft.
	Max. height of sign	8 ft.	15 ft.
1 Street Frontage			
45 mph	Max. area of sign face	64 sq. ft.	1.3 sq. ft. per linear foot of frontage, up to a maximum of 200 sq. ft.
	Max. height of sign	11 ft.	17 ft.
55 mph	Max. area of sign face	80 sq. ft.	1.6 sq. ft. per linear foot of frontage, up to a maximum of 240 sq. ft.
	Max. height of sign	12 ft.	19 ft.
2 Street Frontages			
45 mph	Max. area of sign face	80 sq. ft.	1.3 sq. ft. per linear foot of frontage, up to a maximum of 200 sq. ft.
	Max. height of sign	12 ft.	17 ft.
55 mph	Max. area of sign face	100 sq. ft.	1.6 sq. ft. per linear foot of frontage, up to a maximum of 240 sq. ft.
	Max. height of sign	13 ft.	19 ft.
Source: Multipliers are drawn from <i>Context-Sensitive Signage Design</i> , Marya Morris, Mark L. Hinshaw, Douglas Mace, Alan Weinstein, American Planning Association Planning Advisory Service, Chicago IL., June 2001.			

(b) Property Located within Downtown Duluth.

Downtown Duluth consists of the area zoned Central Business District (CBD). Within the CBD, the following adjustments are allowed:

(1) Historic Pole Signs.

One historic pole sign shall be allowed on a property in the CBD district. Historic pole signs shall have hanging signage, shall be “L” shaped and fabricated of wrought iron or similar material. The sign structure shall not exceed 10 feet in height and shall not overhang the sidewalk or right-of-way. The maximum sign face for this type of sign shall be 16 square feet. This type of sign shall be permitted in lieu of a monument sign and not in addition to. An example of a historic pole sign is illustrated on the right.



(2) Building Signs.

- a. Building signs that are located on or project from a wall, canopy or marquee of a principal building may extend above the parapet wall of a building or eave line of a pitched roof, but to no greater extent than one-half the height of the sign. The following are examples of the extension of such signs:



- b. One building sign on each façade of a building that adjoins a public street or pedestrian walkway may be an electronic changeable copy sign that complies with the provisions of Section 604.09, or a neon sign, or an illuminated sign using an internal or external light source.

(3) Window Signs.

Window signs are encouraged in the CBD in order to promote identity and the look and feel of a pedestrian shopping village. Window signs collectively are allowed to cover up to 75% of the total area of all windows and glass doors, per facade. Window signs may be painted on the inside of the window. Adhesive lettering shall not be allowed. Neon signs shall be allowed in the window but hand written signs that are prohibited under Section 603.03(h) shall not be allowed.

(4) Portable Signs.

Downtown merchants may display one removable A-frame, sandwich board, easel or sidewalk sign on the sidewalk in front of the respective business during regular business hours without a sign permit. The sign must be placed within 10 feet of the main customer entrance

to the building. However, signs may not be placed on the right-of-way, Town Green or become a visual obstruction to oncoming traffic or block the sidewalk for pedestrian activity. These signs may be double faced and shall be limited to 6 square feet per side with a maximum height of 4 feet.

(5) **Prohibited Materials.**

Printed plastic, flat vinyl, flat metal, and adhesive lettering materials for signs shall be prohibited.

Section 606. Regulation of Project Entrance Signs.

606.01 Applicability.

This Section applies to all project entrance signs, as defined herein, that are located at the designated entrances to a residential subdivision, a multi-family development, or a nonresidential subdivision (such as an office park or industrial park).

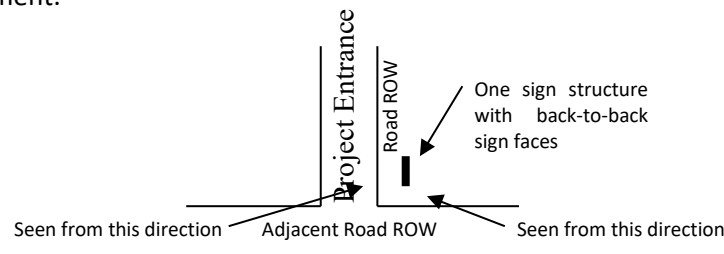
606.02 Sign Structure.

All project entrance sign faces shall be mounted on an architecturally treated monument sign structure or an architecturally treated decorative wall.

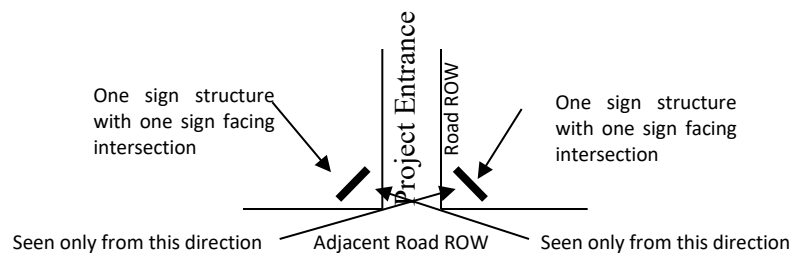
606.03 Project Entrance Sign Installations.

Designs for project entrance signs are classified as two types:

- (1) **Single Sign Installation:** A project entrance sign designed as a single sign structure with two back-to-back faces, oriented to be seen from both directions on the road adjacent to the development.



- (2) **Dual Sign Installation:** A project entrance sign designed as two separate sign structures, each with a single sign face individually oriented toward the intersection so as to be viewed from only one direction on the road adjacent to the development, and each located on opposite sides of the project entrance.



- (3) If the developer chooses to construct two signs per entrance, these signs shall be placed on either side of the roadway; signs cannot be constructed in a center island of any roadway.

606.04 Entrances to Subdivisions.

- (a) A subdivision may have a single or a dual project entrance sign installation at any entrance into the subdivision from an adjoining street outside the subdivision.
- (b) In addition to any principal freestanding signage allowed on a lot within a nonresidential subdivision under Section 605.03(a), if the lot is a corner lot located at an entrance into any residential or nonresidential subdivision, then such lot may contain no more than one permanent project entrance sign for the subdivision in accordance with the provisions for such signs on Table 6-D.
- (c) If a dual sign installation is planned, one project entrance sign may be placed on each corner lot flanking the entrance.

606.05 Entrances to Un-Subdivided Developments.

In addition to any principal freestanding signage allowed on a lot, if any, a multi-family development or a residential or nonresidential condominium project may contain project entrance signs as follows: a single or a dual project entrance sign installation is allowed at any entrance into the development from an adjoining street outside the development, in accordance with the provisions for such signs on Table 6-D.

606.06 Illumination.

- (a) Any project entrance sign may be lighted by external illumination. If floodlights or other incandescent bulbs are used, they may not be directed onto the street or toward vehicular traffic. If neon tubes are used, they must be shielded from view.
- (b) Internal illumination, including channeled letter signs and electronic changeable copy signs, may be used for office park or industrial park subdivisions.

Table 6-D: Project Entrance Signs—By Land Use

	Residential Use		Nonresidential Use
	Single-Family Subdivision ¹⁰	Multi-Family Development ¹¹	Office or Industrial Park (subdivision)
Project Entrance Signs			
Max. number of Project Entrance Signs per development	1 single or dual sign installation at each entrance into the subdivision	1 single or a dual sign installation at each entrance into the development	1 single or a dual sign installation at each entrance into the subdivision

¹⁰ Includes one-family dwellings, townhouses and manufactured homes on individual lots.

¹¹ Includes all residential developments occupying a single property in common, such as apartments, condominiums, manufactured home parks, and nursing homes.

Table 6-D: Project Entrance Signs—By Land Use

	Residential Use		Nonresidential Use
	Single-Family Subdivision ¹⁰	Multi-Family Development ¹¹	Office or Industrial Park (subdivision)
Max. number per project entrance	1 sign per corner lot at an entrance into the subdivision (2 signs per entrance)	2 signs at each entrance fronting on a separate street	1 sign per corner lot at an entrance into the subdivision (2 signs per entrance)
Max. sign face area ¹²	50 sq. ft. each	50 sq. ft. each	50 sq. ft. each
Max. sign height	15 ft.	15 ft.	15 ft.
Sign Characteristics			
Animated	Not allowed	Not allowed	Not allowed
Changeable copy -Manual	Not allowed	Not allowed	Not allowed
Changeable copy-Elec-tronic	Not allowed	Not allowed	Allowed
Illumination, external	Allowed	Allowed	Allowed
Illumination, internal	Not allowed	Not allowed	Allowed
Illumination by exposed bulbs or neon tubes	Not allowed	Not allowed	Not allowed

Section 607. Landscaping Requirements for Signs.

All signs regulated under Section 605 except for single-family residences, and under Section 606, shall meet or exceed the standards of this Section.

607.01 Landscaping Required.

There shall be established a landscaping area along the long side of each principal freestanding sign and each project entrance sign that extends no less than 2 feet out from the sign face. The sign landscaping area may be at ground level or accommodated within planters created as an integral part of the sign base. Within this sign landscaping area, the following standards shall apply:

- All portions of the sign landscaping area shall be covered by landscape materials, as defined in this Development Code. A minimum of 80% of the required landscape area shall be covered with living plant materials, which may include any combination of ground covers and shrubs.
- Shrubs that are provided within the sign landscaping area must be at least 12 inches tall at the time of planting, and be of a species that will not normally exceed 4 feet in height at maturity.
- Plant materials may be clustered for decorative effect following professional landscaping standards for spacing, location and design.

607.02 Maintenance of required plant materials.

¹² If two signs are planned, signs shall be symmetrical in size and shape and shall not exceed 50 square feet each.

The owner, tenant and their agent, if any, and their successors and assigns shall be jointly and severally responsible for the maintenance in good condition of the plant materials used to meet the minimum landscaping requirements of this Section.

Section 608. Additional Regulations for Specific Types of Signs.

608.01 Miscellaneous Freestanding Signs.

Freestanding signs in addition to those regulated under Section 605 are allowed as accessory uses on a property occupied by a residential, commercial, industrial or institutional use if each sign complies with all of the following:

- (a) Permanently installed miscellaneous freestanding signs may be located within the area between a street right-of-way line and the minimum building setback required from that street right-of-way line for the zoning of the property, if such signs are located within 3 feet of driveways that provide access into or from the property.

There shall be no more than 2 such signs per driveway and each such sign shall not exceed 6 square feet in sign face area nor be more than 3 feet in height.

- (b) Miscellaneous freestanding signs located farther from the street than the minimum building setback from that street right-of-way line required by the zoning of the property, shall be allowed as follows:
 - (1) On a property occupied by a multi-family or nonresidential use, one miscellaneous sign not to exceed 32 square feet in sign face area or more than 8 feet in height may be located on the property for each principal building on the lot, or for each drive-through service window on the building.
 - (2) Other miscellaneous freestanding signs are allowed beyond the minimum building setback, provided that such signs are no more than 6 square feet in sign face area nor more than 3 feet in height (except signs that are required by law to be higher than 3 feet, such as those marking a handicapped parking space).
 - (3) Portable signs are not allowed as miscellaneous freestanding signs except for an A-Frame sign for a nonresidential use (also known as a "sandwich board" sign). Such A-Frame signs must be located no farther from an entrance to the owner's business than 6 feet, and may be no larger than 6 square feet in sign face area nor be more than 3 feet in height. Such A-Frame signs must be stored indoors when the owner's establishment is not open for business.



A-Frame Sign

608.02 Miscellaneous Building Signs.

Miscellaneous building signs (as defined in this Development Code) not otherwise prohibited under 603.03, are allowed on nonresidential use properties in addition to the principal building signs allowed under Section 605.03(b), as follows:

- (a) General miscellaneous building signs.

Miscellaneous building signs are allowed, provided that such signs shall be placed only on a tenant space façade fronting on a dedicated public street. Such signs are limited as follows:

- (1) For single-occupant buildings, the maximum aggregate area for all miscellaneous building signs shall be 1 square foot of sign face area per linear foot of the length of the tenant frontage (as defined in this Article) on which the signs are affixed, or 10% of the area of the façade, whichever is greater. No single such sign shall be larger than 6 square feet in sign face area.
 - (2) For planned centers, the maximum aggregate area for all miscellaneous building signs for each tenant space shall be 1 square foot of sign face area per linear foot of the tenant frontage (as defined in this Article), or 10% of the area of the tenant's façade, whichever is greater. No single such sign shall be larger than 6 square feet in sign face area.
 - (3) Such miscellaneous building signs placed in a window may not result in the obstruction of more than 50% of the window area in combination with all other signs in the window.
- (b) Subtenant signs.
- (1) Each business that occupies space within a principal business as a subtenant is allowed one wall sign in addition to the principal building sign allowed for the principal business under Section 605.03(b). Each subtenant wall sign shall not exceed 20 square feet in sign face area, nor shall the total for all such subtenant signs collectively exceed the sign face area allowed for the principal business.
 - (2) The following are examples of subtenant wall signs allowed by this Subsection:



(c) Sidewalk pedestrian signs.

Each tenant (other than a subtenant) located within a planned center is allowed to have one sidewalk pedestrian sign in lieu of an under-canopy sign allowed by this Article, as follows:

- (1) The sidewalk pedestrian sign must be post mounted in a sidewalk planter.
- (2) Each such sign is allowed to have a maximum sign face area of 6 square feet.
- (3) The following is an example of sidewalk pedestrian signs allowed by this Subsection:



(d) Convenience stores and service stations with pump islands.

Additional signage is permitted as follows:

- (1) One sign per freestanding or building canopy face per public street frontage with a maximum of 16 square feet each is allowed. The canopy sign shall not extend above or below the edge of the canopy.
- (2) Spreader bars (signs located under canopy over pump islands) shall be limited to no more than two signs per spreader bar, not to exceed 4 square feet per sign. However, total square footage for all spreader bars shall not exceed 24 square feet.
- (3) On-site separate drive-through car wash building(s), shall be allowed one permanent wall sign, not to exceed 8 square feet with an approved sign permit. This sign shall be for incidental purposes only.

(e) Service entrance signs.

For any tenant space that has a service entrance at the rear of the building, at least one service entrance sign is required.

- (1) Service entrance signs shall be located directly on or adjacent to the service entrance door.
- (2) The combined area of signs at a single service entrance shall not exceed 6 square feet and must be clearly legible for public safety personnel.

608.03 Billboards.

In addition to the general regulations and restrictions applying to all sign classifications, billboard signs (as defined in this Development Code) shall comply with the following:

- (a) All applications for billboards shall be accompanied by written permission of the owner of the property on which the proposed sign is to be placed, a site plan showing the proposed location of the sign, and a scale drawing of the sign.
- (b) Billboards will be permitted only on undeveloped property that is zoned M-1 or M-2 and shall be removed when a Land Disturbance (i.e., Clearing, Grubbing, Grading or Development) Permit is issued for development on the property on which a billboard is located.
- (c) Location and Spacing.
 - (1) No billboard shall be placed within 500 feet of a residence, church, school, park or cemetery.
 - (2) No billboard shall be located within 1,000 feet of another billboard as measured along the right-of-way of the street or streets on which such billboard is located, and provided further that no billboard may be located closer than 500 feet to another billboard in any direction.
 - (3) Billboards shall be erected only in the buildable area of the lot. No trees or other vegetation shall be cut or removed in locating or erecting a billboard.
- (d) Size and Height Regulations.

No billboard sign shall exceed 50 square feet or have more than one sign face or exceed 12 feet in height.
- (e) Conformance to State Law.

Any billboard located or to be located within 660 feet of the nearest edge of the right-of-way of a U.S. or State-numbered highway (which includes SR 13/US 23—Buford Highway, and SR 120—

Duluth Highway/Abbotts Bridge Road), or located or to be located beyond 660 feet of such highway but visible and intended to be read from such highway, must comply with the following:

- (1) Such sign shall comply with all applicable requirements of the Georgia Outdoor Advertising Act, O.C.G.A. 32-6-70 et seq.
- (2) Such sign shall comply with all requirements of this Article and, specifically, this Section 608.03.
- (3) In the case of a conflict between the Georgia Outdoor Advertising Act and the City's regulations, the billboard must comply with the most restrictive requirements with respect to each and every item of regulation.

608.04 Flags.

- (a) All flags mounted on a free-standing flagpole must have a minimum vertical clearance of 8 feet above the ground, sidewalk, private drive or parking area, as applicable. Flags mounted on a pole projecting from a building must provide a minimum vertical clearance of 8 feet above a sidewalk or other area of pedestrian movement.
- (b) No flag on the property of a residential use shall exceed 15 square feet in area or be higher than 40 feet above the ground when mounted on a free-standing flagpole.
- (c) Nonresidential uses are limited to three flags, each of which must be mounted on a free-standing flagpole, resulting in no more than three flagpoles on a nonresidential property.
- (d) The display of the Flag of the United States of America shall be guided by Title 4, Section 3 of the US Code, which prohibits the use of the American Flag for commercial purposes.
- (e) A free-standing flagpole taller than 20 feet shall not be erected or constructed without first obtaining a building permit.

608.05 Suspended Signs.

- (a) Suspended signs must have a minimum clearance of 8 feet to grade.
- (b) If any sign is located within, suspended over or projects above a public right-of-way, the sign owner shall obtain and maintain in force liability insurance for such a sign in such form and such amount as the Planning and Development Director may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least \$500,000.00 per occurrence per sign.

608.06 Changeable Copy Signs.

- (a) Manually activated changeable copy signs.

Manually activated changeable copy signs are permitted in conjunction with freestanding signs, wall signs, and joint signs so long as the changeable copy portion of the sign face does not exceed 60% of the overall sign face of the freestanding or wall signs or 30% of the overall sign face of a joint sign; and provided that the total sign face does not exceed the size limitations imposed elsewhere by this Article.

- (b) Electronic changeable copy signs.

Electronic changeable copy signs may be installed on any freestanding principal sign or principal building on a property occupied by a nonresidential use in accordance with the provisions of Section 605.03.

Section 609. Temporary Signs.**609.01 Temporary Signs; Allowed.**

- (a) Certain signs in addition to those allowed under Section 605 and Section 608 are allowed on a property through the issuance of a temporary sign permit. Such temporary signs shall not be restricted as to the message displayed on the sign, but must comply with the provisions of this Section.
- (b) Temporary signs must comply with all requirements of this Article, including the prohibitions of Section 603.03 and general requirements applying to all signs, except as modified by the provisions of this Section.
- (c) Fixed location: All temporary signs must be installed at a fixed location, either attached to the ground as a freestanding sign or attached to a building. Temporary signs shall not be attached to a vehicle or other movable, animated or portable device, or attached to, held by or displayed upon a person.

609.02 Issuance of a Temporary Sign Permit.

- (a) A temporary sign may not be displayed unless a permit is issued pursuant to Section 610.02, unless otherwise exempt under Section 603.02.
- (b) A temporary sign permit shall only be valid for a period of 30 days from the date of issuance, after which time the owner of the temporary sign or owner of the premises where such sign is located shall remove the sign from the premises.
- (c) (c) No more than one temporary sign permit may be issued to the same premises per quarter, not to exceed four temporary sign permits per one calendar year.

609.03 Size of Temporary Signs.

Temporary signs are restricted to the following sign areas and sign heights:

- (a) Single-family residential, townhouse condominium or manufactured home lot.
Temporary signs located on such subdivided lots shall not exceed 6 square feet in sign face area and 5 feet in height.
- (b) Residential or nonresidential subdivision or condominium development under construction.
Signage within a residential or nonresidential subdivision or condominium development under construction shall not exceed 32 square feet in sign face area and 8 feet in height.
- (c) Multi-family, manufactured home park or nonresidential use property (as defined in this Article).
Temporary signs located on a multi-family, manufactured home park, or nonresidential use property shall not exceed 32 square feet in total sign face area and 8 feet in height per sign.

609.04 Location of Temporary Signs.

- (a) All temporary signs shall be located as follows:
 - (1) At least 10 feet from any street right-of-way line, back of street curb or edge of street pavement, whichever is farthest from the street.
 - (2) At least 10 feet from any side or rear property line and the pavement edge of a driveway.

- (3) Temporary signs located within 30 feet of an intersection of two streets or a driveway and a street shall be no more than 3 feet in height.
 - (b) Temporary signs are not allowed to be placed within or over a public street right-of-way or private street easement.
 - (c) A temporary sign must be a freestanding sign or a building sign (as defined in this Article), and shall not be affixed to any tree, utility pole or official traffic sign or structure.
- A temporary sign shall be erected and maintained only with the permission of the owner of the property upon which the sign is located.

609.05 Construction and Lighting Standards of Temporary Signs.

- (a) Construction standards for signs requiring building permits.

A temporary sign for which issuance of a building permit is required by the Building Code shall meet the same engineering design and materials standards as for permanent signs as required by the Building Code.
- (b) Construction standards for signs not requiring building permits.
 - (1) Nonpermanent but water-resistant construction materials may be used, such as but not limited to poster board, foam core board or illustration board.
 - (2) The words, letters, figures, symbols, logos, fixtures, colors or other design elements that convey the sign's message shall be permanently applied to the sign's face.
- (c) Electronic and manual changeable copy signs shall not be allowed.
- (d) Lighting.

Temporary signs shall not be illuminated.

609.06 Temporary Banners, Portable Signs, Festoons and Inflatable Signs.

All of the following types of signs are allowed one time only for a change in use or change in occupancy of the premises from two weeks prior to the change in use or occupancy until two weeks after the change in use or occupancy with the issuance of a temporary sign permit, and in accordance with the duration, number, size, location and lighting limitations of Section 609. For holiday or seasonal decorations (in contrast to commercial signs), see Section 603.02.

- (a) Banners.

Banners are allowed with the following additional provisions:

 - (1) For a banner that is no more than 12 square feet in sign face area, such banner shall be placed on the site or on a building in such a manner as not to create a safety hazard as determined by the Planning and Development Director. They shall meet the same setback requirements as all other temporary signs. Such a banner shall not be hung as an under-canopy sign, flown as a flag, attached to or hung from an existing freestanding sign, or used as any other form of sign.
 - (2) A banner that is more than 12 square feet in sign face area but no more than 24 square feet in size shall be allowed only as a wall or window sign and shall be placed flush upon the wall or window to which it is attached. Such a banner shall not be hung as an under-canopy sign, flown as a flag, or used as any other form of sign.

- (3) A banner that is larger than 24 square feet in size is not allowed.

(b) Portable signs.

No more than one portable sign is allowed on a property developed for commercial, industrial or institutional use, subject to the following restrictions:

- (1) Maximum size: The maximum size of a portable sign shall not exceed 6 square feet per side. Said sign shall not have flashing lights or animated devices, but may be internally illuminated and may be a manually activated changeable copy sign.
- (2) Placement: The sign must be placed on the site in compliance with Section 609.04 of this Article.
- (3) Securely anchored: To prevent wind damage to the sign or other property, the sign must be securely anchored to the site in a manner acceptable to the Planning and Development Director.
- (4) Electrical connections: All electrical connections to the sign must be in compliance with the Electrical Code as adopted by the City, and must be inspected prior to use.

(c) Festoons.

Festoons such as strings of light bulbs and other illuminated devices, and strings of ribbons, tinsel, pennants, streamers, pinwheels or other similar devices designed to move in the wind are allowed, provided that no part of any such festoon shall be located in or over a public right-of-way and no hazard to traffic safety shall be created.

(d) Inflatable Signs.

Inflatable signs, such as air or gas filled devices and other inflatable devices, are allowed on parcels greater than 2.5 acres in land area. Inflatable signs shall not exceed a total maximum of 300 square feet of sign area and be securely attached to the ground. Inflatable signs must be de-inflated and properly disposed of or stored at the expiration of the permit period.

Section 610. Sign Permits; Requirements and Procedures.

610.01 Issuance of Permits for Permanent Signs.

(a) Sign permits; when required.

- (1) The Department is hereby authorized to issue a sign permit for any permanent sign provided all requirements of this Article are met.
- (2) Except for signs that are exempt from the requirements of this Article under Section 603.02 or are exempt from permitting under Section 610.01(b), below, a sign permit must be issued by the Department before a permanent sign may be:
 - a. Erected or relocated;
 - b. Attached to, suspended from, or supported on a building or structure; or
 - c. Altered, enlarged, or materially improved (including the replacement of a sign face with an electronic changeable copy sign).
- (3) Any sign using electrical wiring and connection shall require a sign permit and an electrical permit. Such a sign permit shall become null and void if an electrical permit is not secured, if

required, or if the sign for which the permit was issued has not been completed within a period of 6 months after the date of issuance.

(b) Permanent Signs exempt from permitting.

The following signs may be erected or placed without securing a sign permit or payment of a fee, provided that each is located and maintained in accordance with the provisions of this Article and all other applicable codes and regulations.

- (1) Miscellaneous freestanding signs allowed under Section 608.01, unless such signs require issuance of a building or electrical permit.
- (2) Miscellaneous building signs allowed under Section 608.02, unless such signs require issuance of a building or electrical permit.
- (3) Flags meeting the standards of Section 608.04 do not require a sign permit for the flag. Flags mounted on a free-standing flagpole require a building permit for the permanent flagpole itself.
- (4) Incidental signs at the entrance drive of residences, estates, farms, ranches, and plantations which do not exceed 1½ square feet in area.

610.02 Issuance of Permits for Temporary Signs.

- (a) The Department is hereby authorized to issue a sign permit for any temporary sign provided all requirements of this Article are met. A temporary sign permit must be issued by the Department before a sign may be erected or attached to, suspended from, or supported on a building or structure except for signs that are exempt from the requirements of this Article under Section 603.02 or are exempt from permitting under Section 610.01(b), above.
- (b) Any temporary sign using electrical wiring and connection shall require a sign permit and an electrical permit, both of which must be issued simultaneously.
- (c) Identification stickers issued by the Department of Planning and Development in conjunction with a temporary sign permit must be adhered to the front side of all signs approved under the permit and must be visible from the street.

610.03 Application for a Sign Permit.

- (a) An application for a sign permit (and accompanying building or electrical permit, if required) shall be made using the forms provided by the Planning Department, shall be filled in with all information required, and shall be submitted in the number of copies as required. Incomplete applications will be returned to the applicant without further review as though no application had been received.
- (b) Sign permit applications shall be accompanied by a scale drawing of each proposed sign, site plan for monument signs, drawing of facade of building elevation showing proposed placement of each wall, canopy or projecting sign and any other information which the Department may require in the exercise of sound discretion in acting upon the application.
- (c) Any person performing new electrical work relating to signs must apply for an electrical permit and hold a valid electrician's trade license issued by the State of Georgia to perform such work. If the electrical wiring exists from a previous sign and no new electrical wiring is necessary for illumination, the sign company may connect the electrical service.
- (d) Use of Foreign Languages.

- (1) For any sign for which a Sign Permit is required that uses words in a language other than English, the English translation of the sign shall be provided on the Sign Permit Application. See also Section 604.07 regarding business names, street numbers and street names.
- (2) Nothing in this Section shall be construed to prohibit the use of foreign words or characters as long as they do not contain obscene language or advertise an illegal activity.

610.04 Process for sign permit approval.

- (a) If the plans, specifications and intended use of the applied for sign or part thereof conform in all respects to the applicable provisions of this Article and the Duluth Building Code, a sign permit shall be issued.

- (b) Review time period.

Upon receipt of a complete and proper application by the Department, the application will be reviewed and a sign permit will be issued or denied within the following time periods:

- (1) For a temporary sign: 10 days.
- (2) For a sign that is included in and found consistent with an approved Master Sign Plan: 5 days.
- (3) For any other permanent sign: 30 days.

If no decision is made by the Planning and Development Director within the applicable time period, then the permit shall be deemed to be approved.

- (c) If after review and investigation by the Department, it is determined that the application fails to meet the applicable provisions of this Article or the Duluth Building Code, the permit shall be denied, and the Planning and Development Director shall notify the applicant in writing of the denial and reasons for denial. The written notice of denial shall be sent by certified mail to the designated address of the applicant on the application.

610.05 Master Sign Plans.

- (a) Master Sign Plans that are required by this Article or that are submitted voluntarily for pre-approval of sign permits must comply with the requirements of this Section.
- (b) Master Sign Plans shall illustrate all proposed signs in sufficient detail so as to provide knowledgeable review and design specificity. Master sign plans shall show, describe or illustrate all signs proposed to be located on a lot or within a development (and the buildings and structures related thereto) for which sign permits will be required under Section 610.01(a).

- (c) Master Sign Plans must include:

- (1) Location.

An accurate drawing to scale showing the position of the sign or signs in relation to nearby buildings or structures (including other signs), driveways, parking areas, property and right-of-way lines, and any other limiting site features (survey not required). The drawing must show or note (as applicable):

- a. The location and size of all other signs on the parcel that are proposed to remain;
- b. The distance in feet to the nearest existing freestanding sign; and
- c. The distance in feet from the location of the proposed sign(s) to the nearest residentially zoned parcel.

(2) Specifications.

An accurate drawing to scale of the plans, specifications and method of construction and attachment of the sign or signs to the building or ground. The drawing shall specifically include the size of the sign structure(s) and sign face area(s), overall height of the sign(s), a site distance diagram, and any protective devices around the base of the sign(s). For any sign for which a building permit is required, the drawing shall be an engineered structural drawing designed to all Building Code requirements.

(3) Design.

The master sign plan shall include such drawings and specifications as may be required to clearly illustrate the design elements of the sign or signs, including the construction materials, size, letter style and color of all elements of the sign(s), including the sign structure, the sign face, and background surfaces. The plan shall also show landscaping details meeting the requirements of this Article, including the extent of the designated landscaping area, the location of specific landscape materials, and the botanical and common name of plants by location on the plan.

(d) Signs that are otherwise exempt under this Article need not be shown on the Master Sign Plan.

(e) Approval.

(1) A Master Sign Plan depicting signs that conform to all requirements of this Article may be approved administratively by the Planning and Development Director.

(2) A Master Sign Plan depicting signs that exceed or modify one or more requirements of this Article may only be approved by the Planning Commission. Following review of a complete application by the Planning Department, the plan will be placed on the agenda of the next available Planning Commission meeting.

(3) Upon approval, the Master Sign Plan shall supersede any conflicting restrictions and regulations of this Article for the property to which it pertains, and shall not be adversely affected by any subsequent amendments to this Article. If approval is denied by the Planning and Development Director or the Planning Commission, as applicable, the applicant may appeal to the Zoning Board of Appeals in accordance with the provisions of the Appeals Article of this Development Code.

(f) Recordation of approved Master Sign Plan.

(1) The Master Sign Plan as approved must be recorded by the owner in the office of the Clerk of Superior Court and a copy of the approved Master Sign Plan, as recorded, must be filed with the Planning and Development Director prior to issuance of a sign permit for any part of the development or premises.

(2) The recorded Master Sign Plan must be included in any sale, lease or other transfer of right of occupancy affecting any part of the development or premises to which the Master Sign Plan applies.

(3) All tenants of the property or development, whether an owner, lessee, subtenant, purchaser or other occupant, must comply with the approved Master Sign Plan.

610.06 Fees.

(a) Fees for all types of sign permits shall be charged as set by the Mayor and Council from time to time.

- (b) The sign permit fee shall be required of all signs requiring issuance of a sign permit under Section 610.01(a) or Section 610.02. A separate fee shall be charged for any required building or electrical permit. The exemption from sign fees does not waive compliance with the sign provisions of this Article including but, not limited to, all size, height and location restrictions.
- (c) If a permit is not obtained prior to installation, each applicable permit is subject to double fee.

Section 611. Nonconforming Signs.

Any sign that was legally in existence on the effective date of this Article or any amendments thereto, and became nonconforming with respect to the requirements of this Article or any amendments thereto, may continue in existence as long as the size of the sign is not increased beyond that existing size on the effective date of this Article and any change thereto is made in conformance with this Article.

611.01 Nonconforming Signs; Registration.

The burden of proof that an existing sign qualifies as a legal nonconforming sign lies with the owner of the sign. Registration of a nonconforming sign is encouraged to establish its status, but is not required.

- (a) Any sign and sign structure that is or has become a nonconforming sign may be registered by the owner with the Department of Planning and Development. If the sign was legally erected prior to the effective date of this Article or any amendments thereto, the sign shall be registered and allowed to continue to exist under the provisions of Section 611.02.
- (b) At the time that a legal nonconforming sign is registered, a sign permit shall be issued to the sign owner and the sign shall be so marked in accordance with Departmental procedures.

611.02 Nonconforming Signs; Provisions.

- (a) A nonconforming sign shall not be replaced, enlarged, or altered except within the provisions of this Article.
- (b) The substitution or interchange of poster panels or painted boards on nonconforming signs shall be allowed provided the size, shape or location of said sign does not change.
- (c) Repair and maintenance of nonconforming signs may be performed as necessary unless more than 50% of the sign is repaired, altered, or replaced, as determined by the Planning and Development Director. If more than 50% of the sign is affected, then any legal nonconforming status is lost and the sign must be brought into compliance with the current sign regulations; provided that signs damaged by fire or act of God may be restored to their original condition.

611.03 Relocation of a Nonconforming Sign.

- (a) An existing sign that was legally erected and that becomes nonconforming as to the setback requirements of this Article due to road widening may be moved to meet the setback requirements of this Article. Such sign shall not be increased in size or changed in any manner except as to become conforming.
- (b) Any sign erected to replace a nonconforming sign must meet all requirements and provisions of this Article.

Section 612. Special Exceptions for Signs.

612.01 Prior Variances.

All variances and exceptions heretofore granted by the Zoning Board of Appeals shall remain in full force and effect and all terms, conditions and obligations imposed by this board shall remain in effect and be binding.

612.02 Special Exceptions.

- (a) The Planning and Development Director has the authority to administratively grant a Special Exception under the Appeals Article of this Development Code if the applicant can provide a reasonable case and will not vary from the regulations herein by more than 10%, with the exception of the number of days a temporary sign is allowed.
- (b) The Planning and Development Director may grant variance Special Exception for the number of signs per storefront or building façade provided the organization of the signs or sign components is consistent with this Article, provides a balanced appearance on the building or similar circumstance, provided the overall allowable square footage has not been exceeded.

612.03 Special Exception Approval Procedure.

Any person may apply for a Special Exception from the provisions of this Article. Any such Special Exception appeal shall be considered in accordance with the provisions, policies and procedures of the Appeals Article of this Development Code.

Section 613. Intent, Interpretation and Severability.

- (a) In interpreting the provisions of this Article, nothing shall be construed as intent to regulate the content of the message displayed on any sign. Designation of types of signs in any manner which may relate to the entity, organization, or person erecting the sign or to the information contained on the sign are merely instructional to assist in categorizing signs for size, height and location purposes and shall not be construed to prohibit any similar type of sign or to in any way restrict the content of the sign.
- (b) All signs may display a non-commercial message in addition to or in lieu of any other message. It is the intent of this Article to regulate only the number, size, height, timing and location of signs to accomplish the purposes set forth in Section 601 of this Article.
- (c) In the event any section, subsection, sentence, clause or phrase of this Article shall be declared or adjudged invalid or unconstitutional including but, not limited to, a declaration or adjudication that such section, subsection, sentence, clause or phrase of the Article relates to the content of any sign or in any way violates the constitutional provisions of free speech under the State of Georgia or United States Constitution, such adjudication shall in no manner effect the other sections, subsections, sentences, clauses or phrases of this Article, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The City Council hereby declares it would have adopted the remaining parts of the Article if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional. The provisions of this Article are declared severable to the maximum extent allowed by law and under no circumstances shall any sign regardless of content, purpose or location, be erected in the City of Duluth which exceeds the greatest height or size allowed for the largest sign authorized under the provisions of this Article.

Section 614. Administration, Enforcement, and Penalties.

614.01 Enforcement.

- (a) All of the provisions of this Article shall be administered and enforced by the Department of Planning and Development whose duties shall include rendering interpretations as to the requirements of this Article, issuing permits, inspecting signs (both existing and installed) under the provisions of this Article, and enforcement of all provisions of this Article.
- (b) All questions arising in connection with the administration and enforcement of this Article shall be presented first to the Planning Department and then to the Zoning Board of Appeals on appeal of a decision from the Planning and Development Director, subject to applicable provisions of this Article.
- (c) A sign permit may be revoked by the Planning and Development Director, or his/her designee, if it is found not to be in compliance with this Article due to intentional misinformation, misrepresentation, or significant error on the sign permit application.
- (d) Issuance of a sign permit in no way prevents the Planning and Development Director, or his/her designee, from later declaring the sign to be non-conforming or unlawful if upon further review of available information the sign is found not to comply with the requirements of this Article.

614.02 Inspections.

- (a) The Department shall inspect or cause to be inspected, by a duly authorized representative, every sign, after issuance of a Sign Permit, during or upon its installation in order to determine that each such sign meets the requirements set forth in this Article. Inspections shall include but are not limited to footings and electrical wiring.
- (b) It shall be the duty of the Department to notify the sign contractor (if known) and the sign owner or property owner, of any discrepancies or violations found during the sign inspection. This notice shall be in writing and provide the specifics as to the discrepancies or violations found during the inspection and may be served in person or by certified mail, return receipt requested.
- (c) All deficiencies or violations shall be corrected, within 48 hours, following service of this notice by the Department or a Duly Authorized Representative. The Department or its Duly Authorized Representative may extend the time limit to correct the violation no more than 5 working days or reduce the limit no less than 24 hours. The Planning and Development Director may approve extension of the correction of the violation limited to 14 days with a written justification.
- (d) The Department or a Duly Authorized Representative is herein authorized to enter private property for the purpose of making an inspection to insure compliance with all provisions of this Article.
- (e) The Planning and Development Director shall have the authority to cause to be removed after due notice any sign which shows gross neglect or becomes dilapidated by giving the owner 10 days written notice to correct the deficiencies or to remove the sign(s). If the owner refuses to comply, the Planning and Development Director shall have the authority to have said sign(s) removed at the expense of the owner.

614.03 Abandoned Signs.

- (a) If a building, structure or premise is vacated, any associated temporary signs shall be removed by the property owner or the sign owner within 10 days, following service of notice by the Department. If the property owner or sign owner fails to comply within 10 days after written notification, the City may cause the removal of the sign at the property owner's or sign owner's expense.

- (b) If a nonconforming sign or sign structure has not been in use whereby the property has been vacated for a period of 3 months or longer and the sign has not been updated to convey a current message, any such sign on the property, building, or structure loses its legal nonconforming status and must be removed or brought into compliance with the current sign regulations.
- (c) A sign that no longer correctly directs or exhorts any person, or no longer advertises a bona fide business, lessor, owner, project or activity conducted or product available on the premises where such sign is displayed, shall be removed by the property owner or the sign owner within 10 days following service of notice by the Department. If the property owner or sign owner fails to comply within 10 days after written notification, the City may cause the removal of the sign at the property owner's or sign owner's expense.

614.04 Administrative Fees, Citations and Penalties.

- (a) Any sworn officer of the City of Duluth is hereby empowered to issue a citation for violation of this Article in any case where it is found that a sign has been erected, constructed, reconstructed, altered, converted or maintained in violation of any provision of this Article. Non-Permanent signs still erected after the expiration date of the approved sign permit shall be removed by the owner/applicant or a citation will be issued for violation of this Article.
- (b) Any person, firm or corporation who fails to comply with the requirements of this Article shall, upon conviction of a violation of this Article, be punished as provided by law by the imposition of a fine of not less than \$50.00 and not more than \$1000.00 (which may not be stayed or suspended), imprisonment of not more than 30 days, or both. Each violation shall be considered a separate offense, and each day in violation shall be considered a separate offense.
- (c) Any employee of the City or community service workers under the supervision of a City employee shall have the authority to remove and confiscate any sign that is located within the public right-of-way and does not comply with the requirements of this Article. Signs confiscated by any City employee for non-compliance, shall be stored at the City Maintenance Facility for a period of 2 weeks. If signs are not claimed within 2 weeks, signs shall be discarded without further investigation. The owners of confiscated signs may claim the confiscated signs within the 2 week period but shall be required to pay an administrative fee of \$100.00 per sign confiscated to reimburse the City for the administrative time and use of resources incurred by the City in the confiscation and storage of the signs.

Article 7. Buffers, Landscaping and Tree Protection

Article 7 sets out the minimum requirements and standards for the protection of the natural environment through tree protection and preservation, the planting of trees and other landscape material, the provision of natural and/or planted buffers between dissimilar uses, and the promotion of water-efficient landscaping principles and techniques.

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Article 7. Buffers, Landscaping and Tree Conservation

Section 701. Definitions.

For the purposes of this Article, the following words and terms shall have the meanings respectively ascribed, in addition to the definitions contained in the Interpretations and Definitions Article of this Development Code.

Basal Area. The cross-sectional area expressed in square inches, of a tree trunk at diameter breast-height (DBH) expressed herein in terms of “units” per acre.

Buffer. Land area used to visibly separate one use from another through screening and distance to shield or block noise, light, glare, or visual or other conditions, to block physical to non-similar areas, or to reduce air pollution, dust, dirt, and litter. See also “**Natural Buffer**” and “**Structural Buffer**.”

Caliper. A standard of trunk measurement for understory or replacement trees. Caliper inches are measured at the height of 6 inches above the ground for trees up to and including 4-inch caliper and 12 inches above the ground for trees larger than 4-inch caliper.

Clearing. The removal of vegetation from a property, whether by cutting or other means.

Clear Cutting. The broad removal of all trees and/or vegetation from a particular area.

Conifer Tree. Any tree with needle leaves and a woody cone fruit including, but not limited to, pine, juniper and cedar species.

Construction Buffer. A type of buffer which is temporary and remains in effect during the construction of a project.

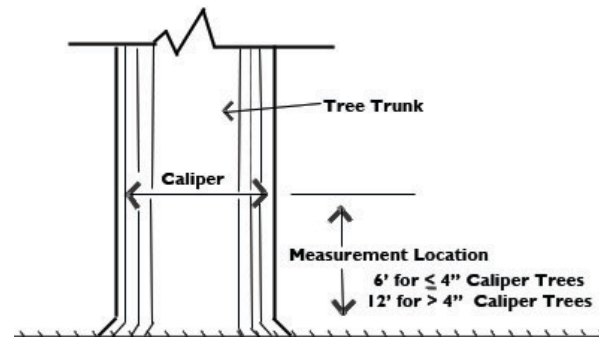
Critical Root Zone. The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient Critical Root Zone (CRZ) will typically be represented by a concentric circle centering on the tree’s trunk with a radius equal in feet to one times the number of inches of the trunk diameter. Example: the CRZ radius of a 20 inch diameter tree is 20 feet.

Density Factor. A unit of measure used to prescribe the calculated tree coverage on a 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 shall also include 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 Development Activity, and includes, but is not limited to, a soil erosion permit, clearing and grubbing permit, land disturbance permit or building permit.

Diameter Breast Height (DBH). The standard measure of overstory tree size (for trees existing on a site). The tree trunk is measured at a height of 4½ feet above the ground. If a tree splits into multiple trunks below 4½ feet, measure the trunk at its most narrow point beneath the split.



Drip Line. A line on the ground established by a vertical plane extending from a tree's outermost branch tips down to the ground; i.e. the line enclosing the area directly beneath the tree's crown from which rainfall would drip.

Floodplain, 100 year. Those lands subject to flooding, which have at least a one percent probability of flooding occurrence in any calendar year, and specifically, the floodplain as shown on the Federal Emergency Management Agency Map (FEMA).

Grading. The placement, removal, or movement of earth by use of mechanical equipment on a property.

Grubbing. The removal of stumps or roots from a site.

Hardwood Tree. Any tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Land Disturbance Permit. Any permit other than a Building Permit issued by the City of Duluth that authorizes clearing or grading activities on a site or portion of a site. Said permit may be Clearing, Clearing and Grubbing, Grading, or Development Permit as defined and authorized under this Development Code.

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.

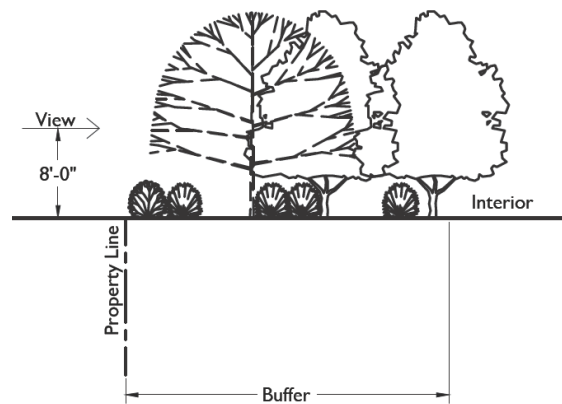
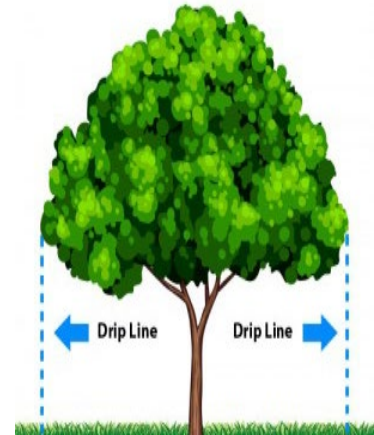
Lot Building Area. The area of a lot encompassed by front, sides and rear yard setbacks or building line as required by this Development Code.

Natural Buffer. Buffers that contain deciduous or perennial vegetation, including evergreen shrubs and trees suitable to local growing conditions that provide an opaque visual screen during all seasons of the year.

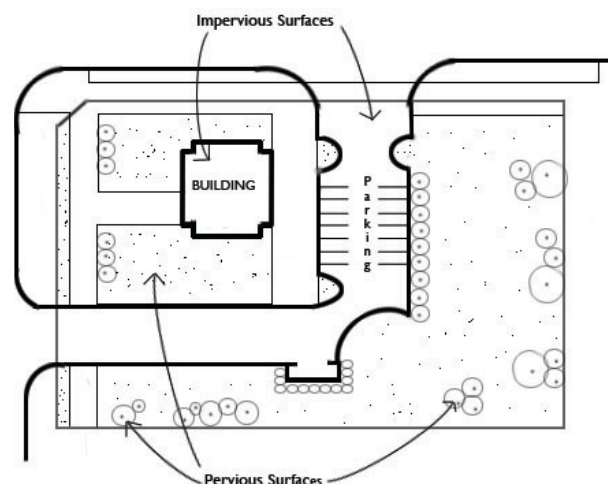
Non-Development Activity. Any alteration of the natural environment which does not require development or site plan approval, but which would include the proposed removal or destruction of any tree(s). Any removal of trees that constitutes Development Activity as that term is herein defined shall not constitute Non-Development Activity.

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

Pervious Surface. All that area of land that can be landscaped or planted, allows natural passage through by water, and is not covered by man-made materials or structures such as buildings or paving.



Example of a Natural Buffer



Plantable Area. The pervious surface area (expressed in square footage) available for the preservation or planting of trees on a single-family subdivision lot. Plantable Area shall not include that portion of the lot that is covered by buildings and structures permitted pursuant to the maximum lot coverage standards of the Development Code.

Replacement Planting. The planting of trees on a site that before development had more trees, and after development shall have fewer trees per acre.

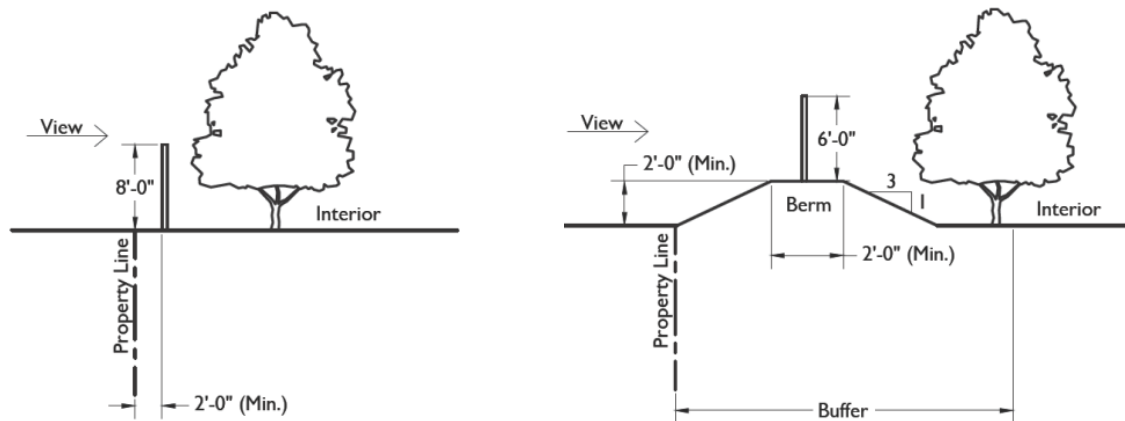
Screening. A method of shielding or obscuring one abutting or nearby structure or use from another by opaque fencing, walls, berms, densely planted vegetation, or the like.

Shrub. A woody plant of relatively low height, as distinguished from a tree by having several items rather than a single trunk.

Softwood Tree. Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

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

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



Examples of Structural Buffers: Opaque Fence or Wall (L) and
Opaque Fence and Earthen Berm (R)

Timber Harvesting. The felling, loading and transportation of timber products (pulpwood etc.). The term "timber harvesting" may include both clear cutting and selective cutting of timber.

Tree. Any living, self-supporting woody or fibrous plant which normally obtains a Diameter Breast Height of at least 3 inches, and typically has one main stem or trunk and many branches.

Tree Removal or Removal of Trees. Any act which causes a tree to die within 2 years after commission of the act, including but not limited to damage inflicted upon the root system or trunk as the result of.

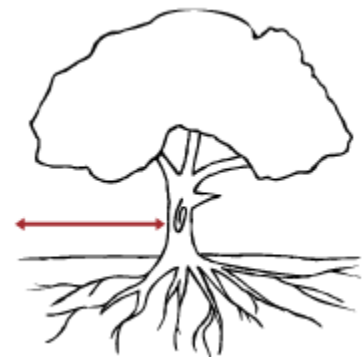
- (1) The improper use of machinery on the trees;
- (2) The storage of materials in or around the trees;
- (3) Soil compaction;
- (4) Altering the natural grade to expose the roots or to cover the tree's root system with more than 4 inches of soil.
- (5) Causing the infection or infestation of the tree by pests, fungus or harmful bacteria.
- (6) Pruning judged to be excessive by the Planning and Development Director or not in accordance with the standard set forth by the International Society of Arboriculture (ISA).
- (7) Paving with concrete, asphalt or other impervious surface within such proximity as to be harmful to the tree or its root system; and
- (8) Application of herbicides or defoliant to any tree without first obtaining a permit.

Tree Density Unit (TDU). A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this Article.

Tree Density Standard (TDS). The minimum number of Tree Density Units per acre which must be achieved on a property after development.

Tree Diameter. The widest cross-sectional dimension of a tree trunk measured at diameter breast height (DBH) or at a point below dbh for new trees or multi-trunked species, but in no case less than 6 inches from the ground.

Tree Protection Area (TPA). Any portion of a site wherein are located existing trees which are proposed to be preserved in order to comply with the requirements of this Development Code. The Tree Protection Area shall include no less than the total area beneath the tree canopy as defined by the drip line of the tree or group of trees collectively.



Tree Protection Area (minimum)

Tree Preservation/Replacement Plan (TP/RP). A plan that identifies Tree Protection Areas where existing trees are to be preserved and where proposed replacement trees are to be planted on a property to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information.

Tree Save Area. An area designated for the purpose of meeting tree density requirements, saving natural trees, and/or preserving natural buffers.

Tree Thinning. Selective cutting or thinning of trees only for the clear purpose of good forestry management in order to protect said forest from disease or infestation and in no way shall be constructed as clear cutting.

Understory. Those trees that grown beneath the overstory, and will generally reach a mature height of less than 40 feet.

Zoning Buffer. A buffer required by this Development Code or as a condition of zoning, special use or variance approval for a specific property.

DIVISION I. BUFFER REGULATIONS.**Section 702. Minimum Buffer Regulations****702.01 Applicability.**

- (a) Buffers shall be required between uncomplimentary uses in accordance with the provisions of Section 702.02 or as a condition of zoning, special use, or variance approval.
- (b) On properties where tree harvesting is proposed, all buffers as required in this Article shall remain intact and undisturbed. Any tree classified as a specimen tree as defined in this Article shall not be removed from the property where tree harvesting is occurring without written approval of the Planning and Development Director.
- (c) Except as otherwise provided herein, all standards for permanent buffers, temporary construction buffers and landscape strips shall be followed when establishing buffers and landscape strips.
- (d) The Duluth City Council may establish minimum buffer requirements in situations other than those given in this Code Division as a condition of rezoning or as a condition of a special use approval.

702.02 Minimum Buffer Requirements, Location and Width.

- (a) A buffer shall be required for the following properties:
 - (1) All property zoned C-1, C-2, HC-Auto, HC-Retail, O-I, O-N, M-1 and M-2, shall have a buffer along any rear and side property lines abutting a residential district.
 - (2) All property zoned RM and MH shall have a buffer along any rear and side property lines abutting a lower density residential district.
 - (3) All property zoned PUD shall have a buffer along any rear and side property lines abutting an RA-200, R-100 or R-75 residential district, as specified in Article 5 of this UDC.
- (b) Minimum buffer width requirements are shown in Table 7-A.
- (c) The Duluth Council may increase the minimum buffer width requirements given in this Section as a condition of rezoning or as a condition of a special use approval. The Duluth Zoning Board of Appeals may increase the minimum buffer requirements given in this Section as a condition to granting a variance.

Table 7-A: Situations Where Buffer Required

	1. Provide a buffer on the lot of this use				
	↓	↓	↓	↓	↓
2. Along a side or rear lot line next to this use or zoning	Single-Family Residence	Multi-Family	Office or Institutional	Commercial ¹	Industrial
Single-Family Residential ²	None	50 feet	50 feet	50 feet ³	50 feet
Multi-Family Residential ⁴	None	None	35 feet	35 feet	35 feet
Office, Institutional, Commercial or Industrial	None	None	None	None	None

¹ For the purpose of this Section, includes any manufactured housing development.

² Includes any land zoned RA-200, R-100, and R-75.

³ Buffer requirement also applies to land zoned PUD that abuts a single-family residential zoning district; see also Article 5 for additional requirements.

⁴ Includes any land zoned RM and MH.

702.03 Buffer Area Requirements, Special Circumstances.

All required buffer areas shall be established in accordance with the following requirements:

- (a) Buffers shall meet the minimum width requirements for uncomplimentary districts as shown in Section 702.02.
- (b) In the event the required buffer width is partially or completely contained within an existing easement (e.g. power or natural gas transmission, etc.), a minimum buffer of no less than 25 feet in width shall be required outside the easement; however, any and all screening and supplemental plantings requirements of the Section 702.05 shall be met outside of the easement area.
- (a) When a proposed development adjoins an existing development of a higher intensity, but the full width of the required buffer does not exist on the existing development, the new development shall provide a buffer of adequate width to meet the full width required on Table 7-A when considered in combination with any existing buffer on the property of the adjoining existing development.
- (b) All screening requirements and other applicable conditions of Section 702.05 shall be met. These screening requirements also apply where a non-residential use abuts a public street(s) across from a residential district.
- (c) No access through this buffer shall be allowed.
- (d) Buffering and open space requirements as required in this Article shall be met on properties where tree harvesting is proposed. See also the notice requirements for tree harvesting in the Forestry and Logging Section of the Restrictions on Particular Uses of this Development Code.

- (e) Additional buffer specifications may be placed on properties by the Planning and Development Director, the Planning Commission and/or the City Council and these must be adhered to as well.

702.04 Approval of Reduction in Buffer Widths.

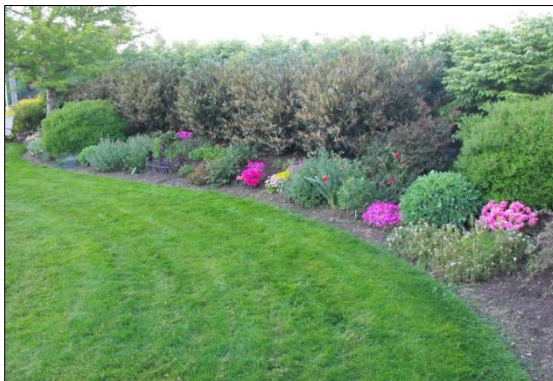
The Planning and Development Director, in certain circumstances, may approve the reduction of a buffer width required in Section 702.02 in accordance with the procedures in the Procedures and Permits Article of this Development Code; however, in determining whether a buffer width may be reduced, the Planning and Development Director must be satisfied that:

- (a) Existing topography and/or vegetation within the reduced buffer area achieve the intent of this Article.
- (b) The requested buffer width reduction does not reduce the required buffer width by any more than 50%.
- (c) All other standards for permanent buffers listed in this Article, including all screening and supplemental plantings requirements, will be met in spite of the buffer width reduction.

702.05 Screening Requirements.

- (a) General Requirements.

- (1) Buffers shall be natural and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized herein, and shall contain the existing tree cover and vegetation as well as any supplemental plantings or replantings as may be required.
- (2) Buffers shall be of such nature and density so as to screen activities, structures and use on the property from view from the normal level of a first story window on an abutting lot and shall further provide a year-round effective visual screening.
- (3) Buffers required alongside property lines shall extend to a street right-of-way line unless otherwise required by the Planning and Development Director in order to observe the sight distance requirements contained in the Project Design and Construction Standards Article of this Development Code, or as authorized by a condition of zoning, special use or variance approval.
- (4) In situations where the required buffer width is partially or completely contained within an existing easement (e.g. power or natural transmission, etc.), the screening requirements of this Article shall be met outside of the easement area.



Illustrative Examples of Natural Buffers
(landscaping, landscaped berm)

(b) Supplemental Plantings.

- (1) Buffers in which vegetation is non-existent or is inadequate to meet the screening requirements of this Article shall be planted with supplemental plantings so as to provide a year-round effective visual screen.
- (2) Supplemental plantings and re-plantings shall consist of evergreen trees, shrubs, or combination thereof, native or adaptable to the region as submitted by a registered landscape architect.
- (3) All supplemental plantings shall be installed to allow for proper plant growth and maintenance.

(c) Non-Vegetative Screening (Structural Buffer).

- (1) Non-vegetative materials utilized to satisfy the screening requirements of this Article, in addition to the use of existing vegetation and/or supplemental plantings, may consist of walls, fences, earthen berms or any combination thereof.
- (2) If walls or fences are to be utilized, their placement and installation shall be such so as to cause minimal disturbance of existing vegetation and located so as to provide an effective visual screen.
- (3) Electric fencing shall be prohibited as a structural buffer.



Illustrative Examples of Structural Buffers
(fencing/landscaping and fencing/landscaped berm)

(d) Disturbance or Encroachments.

- (1) Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, similar facilities, and any associated easements, shall not encroach into a 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 re-plantings of vegetation, or authorized non-vegetative screening devices shall be allowed to encroach into a buffer provided there is minimal disturbance of any significant existing vegetation.

- (3) Land disturbance is authorized in areas of a buffer that are devoid of significant vegetation provided that the final grade and re-plantings of vegetation meet the screening requirements contained herein.
- (4) Dying, diseased or dead vegetation may be removed from a buffer provided minimal disturbance occurs. Vegetation thus removed shall be replaced where necessary to meet the screening requirements contained herein.
- (e) Protection during Land Disturbing Activities.
 - (1) During authorized land disturbing activities, buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.
 - (2) The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the Planning and Development Department.
 - (3) Also see the Procedures and Permits Article of this Development Code for requirements.

702.06 Screening Requirements for Accessory Uses.

- (a) A 5-foot wide landscape strip, planted in accordance with this Article or an 8-foot high solid enclosure of the same or similar materials as the front façade of the primary structure shall be required to surround three sides of any accessory use located on property zoned for non-residential or multi-family use.
- (b) The Planning and Development Director may reduce the number of sides for which the landscape strip or solid enclosure is required, provided he or she determines that such a reduction will still allow for the achievement of the intent of this Article.
- (c) Accessory uses here include, but are not limited to, dumpsters, utility and maintenance structures, storage buildings and loading facilities.
- (d) Also see the accessory use and structure provisions of the Restrictions on Particular Uses Article.

702.07 Exhibits Required.

All buffers shall be shown on the appropriate permit application(s) and on the required site plan or final subdivision plat for a development.

702.08 Distance Requirements for Structures and Uses.

All accessory structures, including parking facilities, driveways and retaining walls shall be located a minimum of 5 feet from any required buffer area. All principal structures shall be located a minimum of 10 feet from any required buffer area.

702.09 Standards for Temporary Construction Buffers.

- (a) Where Required.
 - (1) The City Council may require the establishment of temporary construction buffers as a condition of rezoning or as a condition of a Special Use Permit.
 - (2) The Zoning Board of Appeals may require the establishment of temporary construction buffers as a condition to granting a Variance.
- (b) Time Constraints.

Construction buffers shall only be in effect during the construction period of a project and shall terminate upon project completion. In the case of a residential subdivision, a construction buff-

er shall terminate upon each individual lot with the issuance of a Certificate of Occupancy for the principal dwelling.

(c) Disturbance or Encroachments.

- (1) Construction buffers shall be natural, undisturbed and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized herein.
- (2) The encroachment of ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sediment basins, sanitary sewer conveyance facilities, similar facilities, and any associated easements, into a construction buffer shall not be authorized 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 prior to conducting land disturbing activities (including clearing) on the lot, then the Planning and Development Department 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.

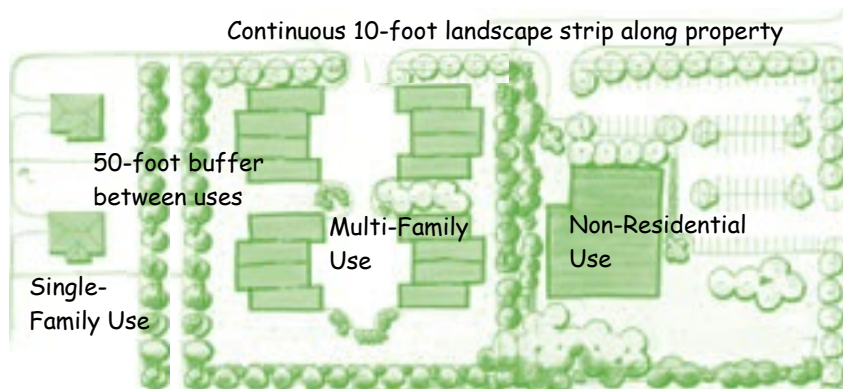
- (1) During authorized land disturbing activities, construction buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.
- (2) The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the Planning and Development Department.

DIVISION II. LANDSCAPE REGULATIONS.

Section 703. Applicability.

703.01 Non-Residential and Multi-Family Uses.

- (a) Non-residential and multi-family uses shall provide for landscape plantings on-site as follows:
- (1) In a Landscape Strip at least 10 feet in which adjacent to any street right-of-way abutting the property and running the length of the entire property frontage; and
 - (2) As required by a condition of zoning, special use or variance approval.



703.02 Residential Subdivisions.

Residential subdivisions shall provide for landscape plantings on-site as follows:

- (1) In no-access easements that are required to be provided by this Development Code along the line of double frontage lots abutting upon a major thoroughfare; and
- (2) As required by a condition of zoning, special use or variance approval.

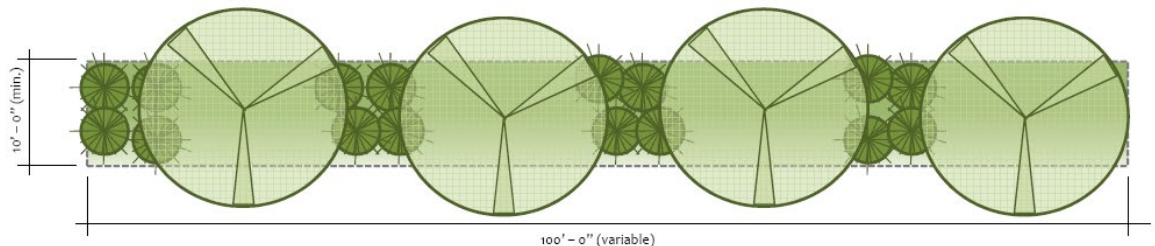
Section 704. Native Vegetation Required

- (a) Landscaping Trees shall use be appropriate for the Plant Hardiness Zone(s) for Gwinnett County as defined by the Cooperative Extension, University of Georgia College of Agricultural and Environmental Sciences or as recommended by the Georgia Forestry Commission. The use of native tree species is strongly preferred.
- (b) Plant species included on the Georgia Exotic Pest Plant Council Invasive Plant List are prohibited, with the exception that the following species may be used with Planning and Development Department approval: Bermuda grass (*Cynodon dactylon*), bahia grass (*Paspalum notatum*), periwinkle (*Vinca* spp.), cornflower (*Centaurea cyanus*), Queen Anne's lace (*Daucus carota*), weeping lovegrass (*Eragrostis curvula*), tall fescue (*Festuca arundinacea*), tawny daylily (*Hemerocallis fulva*), rose of Sharon (*Hibiscus syriacus*), largeleaf lantana (*Lantana camara*), peppermint (*Mentha x piperita*), Chinese holly (*Ilex cornuta*), Japanese holly (*Ilex crenata*), giant foxtail (*Setaria faberi*), Yellow foxtail (*Setaria pumila*), and tall vervain (*Verbena bonariensis*).
- (c) See also Section 709. Water Efficient Design Consideration.

Section 705. Landscape Strip Planting Requirements.**705.01 Ten Foot Wide Landscape Strips.**

Landscape Strips which are required to be 10 feet in which shall contain landscaping and plantings within said strip as follows:

- (a) One tree for each 25 linear feet of strip length shall be provided.
- (b) Four shrubs for each 25 linear feet of strip length shall be provided.
- (c) The remaining ground area shall be sodden, seeded or hydro seeded with grass, and/or planted with groundcover species and/or provided with other landscaping material, or any combination thereof.

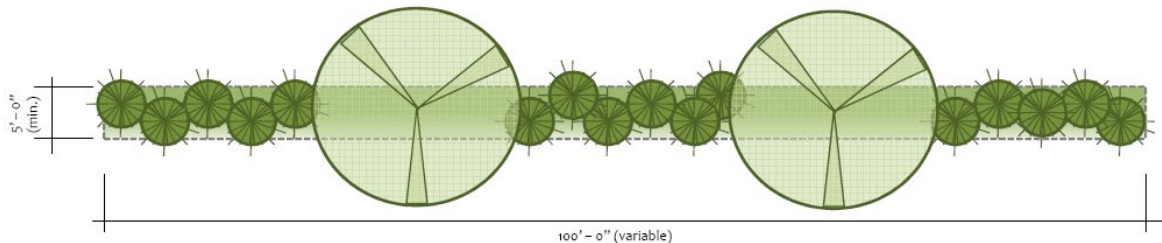


10-Foot Wide Planting Strip: 1 Tree and 4 Shrubs per 25 Linear Feet

705.02 Five Foot Wide Landscape Strips.

Landscape Strips which are required to be 5 feet in width shall contain landscaping and plantings within said strip as follows:

- (a) One tree for each 50 linear feet of strip length shall be provided.
- (b) Eight shrubs for each 50 linear feet of strip length shall be provided.
- (c) The remaining ground area shall be sodden, seeded or hydro seeded with grass, and/or planted with groundcover species and/or provided with other landscaping material, or any combination thereof.



5-Foot Wide Planting Strip: 1 Tree and 8 Shrubs per 50 Linear Feet

- (d) Encroachment into Landscape Strips.

Required Landscaped Strips shall not be encroached upon by parking spaces, driveway surfaces or stormwater detention facilities except that driveway crossings may traverse such strip as near to a perpendicular alignment as practical.

Section 706. Parking Lot Landscape Requirements

See the Parking and Loading Article of this Development Code.

Section 707. No-Access Easement Screening Requirements.

No-access easements which are required to be provided and recorded by this Development Code, or as a condition of zoning, special use or variance approval, shall be screened as follows:

- (a) Planted with a single line of evergreen trees or shrubs; or,
- (b) Contain a solid or decorative fence; or,
- (c) Contain such other landscaping treatments or grade changes which will produce a partial screening effect as authorized by the Planning and Development Director.

Section 708. Buffer and Landscape Plan Specifications.

- (a) A buffer and landscape plan shall be prepared for any project wherein buffer areas or other landscaping areas or treatment are required by this Development Code, conditions of zoning, special use or variance approval, or other regulations of the City of Duluth, and shall be approved prior to issuance of a development permit.
- (b) While the plan shall cover, at a minimum, the required buffer and landscape areas, the plan can be combined with a general landscaping plan for the entire project and/or tree preservation/replacement plan (if required), at the developer's option.
- (c) The buffer and landscape plan shall be prepared by a registered landscape architect.
- (d) The buffer and landscape plan shall be shown on a site plan or boundary survey drawn to the same or a larger scale as the other plan documents prepared for the development permit application and shall cover the same area.

- (e) The buffer and landscape plan shall contain but need not be limited to the following:
- (1) Project name and land district, land lot, and acreage.
 - (2) Developer's name and telephone number.
 - (3) The name, address and telephone number of the registered landscape architect responsible for preparation of 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 shall comply with Georgia Law governing the practice of the profession.
 - (4) Boundary lines of each buffer or other landscape area, appropriately labeled.
 - (5) Delineation of undisturbed buffer areas, and any other areas wherein trees are proposed to be retained to meet city requirements, along the drip lines of the trees or groups of trees contained therein. These areas shall be treated in accordance with the tree protection area requirements contained in this Article, and labeled as such. Protective barriers and signage as required by this Article shall be shown as to location and detailed.
 - (6) General location of all proposed trees, shrubs, vines, groundcovers, mulching, and other features proposed within the buffer/landscape area. A scale sufficient to clearly indicate all details shall be used, along with a north arrow.
 - (7) Within areas involving or adjacent to land form changes, existing and finish grade topographic lines at an interval of no more than 2 feet may be required.
 - (8) For new plant materials to be installed, a plant material list including but not limited to:
 - a. Common and botanical names of all proposed plants.
 - b. Plant quantities.
 - c. Size and condition of plants. (Example: 1 inch caliper, 6 feet height, balled and burlapped.)
 - d. Spacing. Remarks as necessary to insure proper plant selection upon installation. (Example: Specimen, multi-trunked)

Section 709. Water-Efficient Design Consideration.

Individuals or firms who prepare the plans and plats required by this Article shall use water-efficient landscaping principles and techniques as one of the criterion to be used in plant selection and design.

- (a) Principles and Techniques of Water-Efficient Landscaping.

The recommended principles and techniques to be considered are as follows:

- (1) Proper Location and Design - locating plants where they will naturally thrive and not require excessive water and maintenance to survive, as well as grouping plants by water needs, and limiting and concentrating high water using plants.
- (2) Turf Selection - selecting turf grasses that can survive the variable rainfall conditions in this region, and limiting turf areas.
- (3) Efficient Watering - once plants are established, avoid watering during periods of normal rainfall and during droughts, watering every week to 10 days or less depending on the drought tolerance of the plants.

- (4) Soil Improvements - loosening and breaking up the soil beyond the immediate planting area to allow better water absorption and to promote deep roots.
- (5) Mulching - using mulch to hold moisture in the soil which helps maximize the benefits of watering as well as preventing weeds.
- (6) Plant Selection - selecting plants according to their watering requirements and optimum locations.
- (7) Maintenance - maintaining the landscape to maximize water conservations such as increasing mowing heights and avoiding fertilizing during dry spells.

DIVISION III. TREE PRESERVATION AND TREE REPLACEMENT REGULATIONS.

Section 710. Purpose and Intent.

The City deems it necessary and desirable in the interest of public health, safety and welfare to enact provisions for the preservation, planting and replacement of trees and to prevent the indiscriminate removal of trees in the City without denying the reasonable use and enjoyment of real property. The importance of trees is recognized for their shade, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, aesthetic and economic enhancement of all real property, and their contribution to the general wellbeing and quality of life of the citizens of Duluth. Consistent with the expressed purpose of this Code Division, all persons shall make reasonable efforts to preserve and retain certain existing, self-supporting trees as defined herein. It is also the intent of this Code Division that all applicable sites within the City maintain or obtain a minimum tree density, as defined and explained herein.

Section 711. Exemptions.

The following shall be exempt from the provisions of this Code Division:

- (a) The removal of trees from a developed residentially zoned, single-family lot.
- (b) The necessary removal of trees by a utility company within dedicated utility easements provided alternative methods to trenching are used when possible including boring and tunneling.
- (c) The removal of trees on public right-of-ways conducted by, on behalf of, or any activity pursuant to work to be dedicated to, a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public right-of-way.
- (d) The removal of trees from golf courses, lakes, and detention ponds and drainage easements.
- (e) The removal of any tree which has become or threatened to become a danger to human life or property or the removal of a diseased or infested tree to prevent the transmission of disease or infestation. The owner/developer, prior to removal of the diseased tree(s), shall provide a report from a professional arborist to the Planning and Development Director prior to tree removal. This report shall identify the conditions of the tree(s) that necessitate removal. In the case of immediate danger to life and property the tree may be taken down and an inspection requested to verify the condition of the tree.
- (f) Notwithstanding the foregoing, all reasonable efforts shall be made to save Specimen Trees.

Section 712. Approval to Remove Trees.**712.01 Tree Removal Approval Required for Development Activity.**

- (a) No person shall engage in any new development activity, such as the construction of a subdivision, multi-family project or nonresidential development, without meeting the requirements of a site development plan as required in 712.01(a) *Site Development Plans* of Article 11.
- (b) For any existing multi-family or nonresidential development for which a development permit was previously issued, no tree shall be removed that would reduce the tree density on the property below that required under this Article without the reissuance of the tree removal permit (or approval of a sketch if qualified under Section 712.02(b)).
- (c) No person shall “clear cut” any parcels or combination greater than 2 acres without specific plan approval during zoning or first obtaining a Special Use approval. Clear cutting of parcels less than 2 acres shall not be allowed unless approved by the Planning and Development Director with clear evidence of necessity for development of the parcel.

712.02 Application Requirements for Tree Removal.

- (a) When a person applies for tree removal approval as defined in Section 712.01, such person shall also file an application for a tree removal permit and provide the following information:
 - (1) A complete tree survey and inventory, as described in Section 712.03.
 - (2) An integrated site plan showing specimen trees, the trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, driveways and curb cuts and proposed tree plantings and other landscaping.
 - (3) A detailed plan to protect and preserve trees before, during and for a period of 2 years after construction, which plan shall contain the following information:
 - a. All items found on the Erosion, Sedimentation and Pollution Control Submittal checklist pertinent to normal plan review.
 - b. Site area (roads, utility lines, detention ponds, etc.)
 - c. The locations of existing and proposed structures, paving, driveways, cut and fill area, detention areas, etc.
 - d. Phase lines or limits of construction.
 - e. A delineation of all protected zones with any required dimensions.
 - f. Calculations showing compliance with the required site density factor (see Section 722) using existing trees and/or replacement trees.
 - g. Location of all existing and proposed utility lines or easements.
 - h. Locations of any boring sites for underground utilities.
 - i. Locations of all specimen trees and indications whether they are to be removed or preserved.
 - j. Locations of all tree protection devices, materials to be used in each location and details.
 - k. A delineation of a tree save area in which trees have been inventoried for density calculations.

- l. If applicable, locations and details of all permanent tree protection measures (tree wells, aeration system, permeable paving, retaining walls, bollards, etc.; and
 - m. Additional information as required on a case-by-case basis.
- (b) Minor changes to existing development require only a sketch showing changes to be submitted to the Planning and Development Director for review and approval.

712.03 Tree Survey Plan and Inventory.

- (a) The tree survey as required in this Article shall be in the form of a to-scale map or a site plan prepared and sealed by a registered surveyor or certified engineer, arborist or landscape architect, noting the location of all trees (as described in Paragraph (b) below) within the area to be modified from its natural state and 25 feet beyond in each direction or to the property line, whichever is less.
- (b) All specimen trees and all trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size (caliper or DBH, whichever is applicable) and species.
- (c) Sampling methods may be used to determine tree densities for forested (over 5 acres). Specimen trees must be shown on the plan with an indication whether they are to be retained or removed. All tree protection zones and tree save areas must be delineated on the plan. All buffers with existing trees must be delineated on plans as tree save areas. Land disturbance within any buffer is subject to Planning and Development Department approval.

712.04 Tree Survey Inspection.

Following the receipt of the completed tree removal application and supporting data, the Planning and Development Director or his designee shall schedule and conduct an inspection of the proposed development site. The applicant or his designee shall be advised as to the date and time of the inspection and given an opportunity to participate. Following inspections, the Planning and Development Director, consistent with the purposes of this Development Code, shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replanting plans.

712.05 Tree Removal Permit.

- (a) The Planning and Development Director shall review all applications and supporting data and take one of the following actions: approve, approve with conditions or disapprove.
- (b) The issuance of a tree removal permit does not authorize any development activity until such time as an appropriate development plan approval is granted and a permit is issued pursuant to Section 1111 *Land Disturbance Permits* in Article 11.
- (c) Tree removal and replacement shall begin no later than 180 days after issuance of the tree removal permit and shall be completed no later than two years after the issuance of the permit. The Planning and Development Director may refuse to issue any permit for tree removal until the submission of all development plans and receipt of other evidence satisfactory to the Director that there is a reasonable certainty that the development activity is imminent. One renewal of a permit at no additional fee shall be granted if a reasonable request is made.
- (d) No Certificate of Occupancy shall be issued until all requirements of the tree planting have been satisfactorily completed or an acceptable performance guarantee has been approved (see Section 1130 *Performance Guarantee* of Article 11).

Section 713. Minimum Tree Density Requirements.

- (a) All sites within the City other than single-family residential lots shall maintain a minimum tree density of 20 units per acre. The term “unit” is an expression of basal area as defined herein, and is not synonymous with “tree”.
 - (1) The density requirements must be met whether or not a site had trees prior to development. The density may be achieved by counting existing trees to be preserved, planting new trees in accordance with the minimum standards of this Code Division, or some combination of the two. Minimum tree density shall be calculated and established pursuant to the formula and analysis set forth in this Article. The developer shall be subject to the minimum tree density requirement set forth in this Paragraph, but the developer shall base its density calculations on the net site area excluding the infrastructure improvements (roads, utility lines, detention ponds, etc.). In no event shall a parking lot be considered an infrastructure improvement.
 - (2) A required buffer shall not be counted towards tree density. Tree Save Areas may be counted in overall density for up to a 50% credit on individual lot requirements for residential lots.
- (b) All single-family residential lots being developed as a subdivision in the City shall maintain a minimum tree density based upon the maximum number of trees that can be maintained within 20% of the lot’s Plantable Area, taking into consideration the standards established in this Development Code for tree size and separation. The density requirement must be met whether or not the individual lot had trees prior to development.
- (c) Replanting lots shall be at the ratio of not less than one overstory tree (minimum 2-inch caliper) for every three understory trees (minimum 1-inch caliper).
- (d) Notwithstanding the foregoing, it is required that all reasonable efforts be made to save Specimen Trees. (Reasonable efforts shall include, but not be limited to, alternate building design, building location, parking area layout, parking area location, water retention location and the like).
- (e) Tree Save Areas are encouraged and will be given credit of up to 50% individual lot requirements when the number of trees in the tree save areas is equal to or greater than the total number of trees required on the total number of lots within the subdivision. When a 50% reduction on required trees is taken, the balance of the trees shall be planted in the front yard of the individual residential lots.
- (f) Specimen trees and stands of trees must be replaced by species with potentials for comparable size and quality. Tree replacement in addition to the minimum site tree density may be required in recompense for the removal of specimen trees.

Section 714. Tree Survey Plan and Inventory.

- (a) The tree survey as required herein shall be in the form of a to-scale map or a site plan prepared and sealed by a registered surveyor or certified engineer, arborist or landscape architect, noting the location of all trees within the area to be modified from its natural state and 25 feet beyond in each direction or to the property line, whichever is less.
- (b) All Specimen Trees and all trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size (caliper or DBH, whichever is applicable) and species.

- (c) Sampling methods may be used to determine tree densities for forested (over 5 acres). Specimen Trees must be shown on the plan with an indication whether they are to be retained or removed. All Tree Protection and Tree Save Areas must be delineated on the plan. All Buffers with existing trees must be delineated on plans as Tree Save Areas. Land disturbance within any Buffer is subject to Planning and Development Department approval.

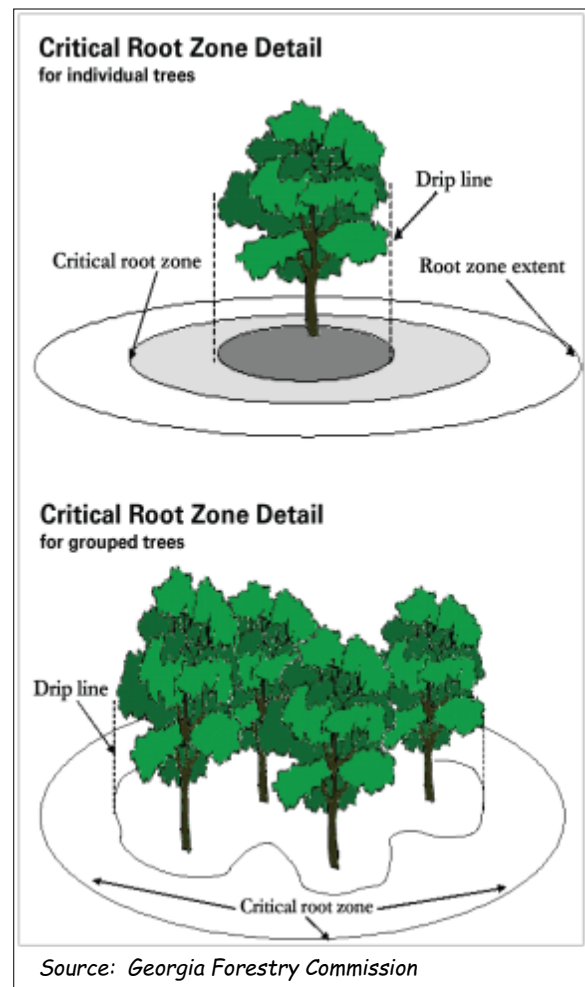
Section 715. Tree Protection.

- (a) 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 prohibited.
- (b) Prior to commencement of 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.

Section 716. Tree Preservation Standards.

Prior to any tree removal or commencement of construction on a site, the following system shall be used:

- (a) Location and Types of Tree Protection Devices.
 - (1) Tree protection devices are to be installed as shown on the plan or otherwise completely surrounding the critical root zone of all the trees to be preserved.
 - (2) The plan shall indicate whether the tree protection device is to be active or passive.
 - (3) Active protection (see Materials section below) is required where Tree Save Areas are located in proximity to construction activity.
 - (4) Passive protection (see Materials section below) may be used in more remote locations and in all protected zones not designated as Tree Save Areas.
 - (5) The locations and installation of all tree protection devices will be verified prior to the issuance of the construction permit for clearing and/or grading. All Tree Protection Devices must be maintained intact throughout construction.
 - (6) Once Protected Zones are established and approved, any changes are subject to Planning and Development Department review.



(b) Materials.

- (1) Active tree protection shall 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 Planning and Development Director shall 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 shall be marked at the base of the trunk with blue colored water-based paint.
- (2) Passive protection shall 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) Sequence of Installation and Removal.

All tree protection devices shall be installed prior to any clearing, grubbing or grading. Tree protection must remain in functioning condition until the Certificate of Occupancy is issued.

Section 717. Tree Damage.

Any tree designated in the plan to be saved that is damaged during construction or as a result of such construction, shall be treated according to accepted National Arborists Association Standards, or replaced with a tree(s) equal to the unit value of the tree removed. However, any Specimen Tree damaged as described above shall be replaced with a tree(s) two times the unit value of the tree removed.

Section 718. Tree Planting Standards.

- (a) Trees selected for planting must be free from injury, pests, disease, nutritional disorders or root defects, and must be of good vigor in order to assure to reasonable expectation of survivability.
- (b) It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. Accordingly, the replanted trees shall be of the same or similar species as those removed unless the trees that were removed were non-native.
- (c) Replacement trees shall be of a native species appropriate for the Plant Hardiness Zone(s) for Gwinnett County as defined by the Cooperative Extension, University of Georgia College of Agricultural and Environmental Sciences or as recommended by the Georgia Forestry Commission.
- (d) See also Section 709.

Section 719. Plan and Plat Specification.

719.01 Tree Preservation/Replacement Plan Specifications.

- (a) Tree Preservation/Replacement Plans shall be prepared by a professional landscape architect, Urban Forester, or Arborist in accordance with the specifications for such plans contained herein. The performance of professional services in the preparation of plans required herein shall comply with Georgia Law governing the practice of the applicable profession. Other licensed professionals (e.g. architects, engineers, etc.) may be authorized by the Planning and Development Director to prepare Tree Preservations Plans, but not Tree Replacement Plans, provided that they demonstrate, to the satisfaction of the Planning and Development Director, competency and knowledge in the principals and practices of arboriculture.
- (b) The Tree Preservation/Replacement Plan shall 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 shall cover the same area. The plan may be combined with a required Buffer and Landscape Plan for the project, at the option of the developer.

- (c) The Tree Preservation/Replacement Plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this Article will be fully satisfied.
- (d) The Tree Preservation/Replacement Plan shall contain but need not be limited to:
 - (1) Project name, Land District, Land Lot, north arrow and scale.
 - (2) Developer's name, address and telephone number.
 - (3) The name, address, and telephone number of the professional Landscape Architect, Urban Forester, Arborist or other authorized individual responsible for preparation of the plan, in accordance with the requirements of Section 719.01(a), above, and the Seal or statement of professional qualifications of said person (which may be attached separately).
 - (4) Delineation of all minimum yard areas, buffers, and landscape areas as required by this Development Code or conditions of zoning, special use or variance approval.
 - (5) Total acreage of the site and total acreage exclusive of all zoning buffer areas.
 - (6) Delineation of all areas located within a 100-year floodplain.
 - (7) Existing Trees to be retained in Tree Protection Areas:
 - a. Trunk location and size (to the nearest inch in diameter at or below diameter breast height), of individual trees proposed to remain for credit toward meeting the minimum tree density standard on the property.
 - b. Groups of three or more trees whose drip lines combine into a single Tree Protection Area may be outlined as a group and their number, by diameter, shown in the required Summary Table (see also subsection (10) below).
 - c. If the number and size of all existing trees to remain on the site exceeds the required tree density standard for the entire site, only those trees required to meet the minimum tree density standard must be shown.
 - d. All Tree Protection Areas are to be outlined and labeled.
 - (8) Tree Protection Measures:
 - a. A detail or description of the protective tree fencing, staking, or continuous ribbon to be installed, and the location of such measures, which at a minimum shall follow the drip line of all trees to be retained along adjoining areas of clearing, grading, or other construction activity.
 - b. Measures to be taken to avoid soil sedimentation intrusion into Tree Protection Areas, and the location of such devices.
 - c. Proposed location of temporary construction activities such as equipment or worker parking, materials storage, burn holes, equipment wash down areas, and entrance pads.
 - d. Proposed type and location of any tree save area signs or other pertinent signage.

- (9) If replacement trees are proposed to be planted in order for the property to achieve the required Tree Density Standard, the replacement trees shall be shown and their spacing and diameter identified, to the extent needed to achieve the minimum requirements. Trees grouped together in tree planting areas may be listed on the required Summary Table by total number in the grouping, by size.
- (10) A Summary Table of the number of existing trees to remain and new trees to be planted, by diameter to the nearest inch at or below dbh, shall be shown along with calculations showing the tree density achieved for the site. Additional credits shall be noted where applicable (see Section 722). Groupings of tree in Tree Protection Areas and areas for new tree planting may be keyed to the Summary Table by area rather than having each tree individually labeled on the plan.
- (e) The plan sheet which shows the grading plan, including existing and proposed contour lines, shall indicate the drip line location of all Tree Protection Areas through the use of shading on the plans. The exact location of each tree is not desired to be shown, only the limits of the Tree Protection Area and any other areas which are not to be disturbed.

Section 720. Compliance.

720.01 Artificial Materials Prohibited.

All artificial plants, trees, shrubs, grass or other vegetation shall be prohibited from fulfilling the requirements of this Article.

720.02 Warranty or Maintenance Surety.

Upon final installation of new trees, shrubs or other landscape material planted to meet the requirements of this Code Division, and following acceptance by the Planning and Development Department in accordance with the procedures set forth in the Procedures and Permits Article of this Development Code, the owner shall either provide proof of warranty or post a Maintenance Bond or other acceptable surety, warranting the new trees, shrubs or landscape material for a period of no less than one year.

720.03 Inspection.

- (a) The Planning and Development Department shall perform an inspection of the plantings and landscape materials required by this Code Division prior to expiration of the one year warranty or maintenance period. The owner shall be notified of any replacements or restoration that must be made to maintain compliance with this Code Division or conditions of zoning, special use or variance approval.
- (b) Required landscape material found to be dead or near death shall be replaced prior to release by the Planning and Development Department of the warranty of maintenance surety. In no case shall replacement be delayed greater than 30 days from notification unless a performance bond is posted with the Planning and Development Department.

720.04 Performance Surety.

- (a) Compliance Prior to Certificate of Occupancy or Final Plat Approval.

In the event that new trees proposed to be planted to achieve the Tree Density Standard as set forth in the Tree Regulations contained herein, or other trees or landscape material required to be planted as set forth in the Buffer Regulations or Landscape Regulations contained herein, are not installed upon application for a Certificate of Occupancy or Final Plat approval as appropri-

ate 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 material and their installation shall be posted with the Planning and Development Department in accordance with the performance bonding requirements and provisions of the Procedures and Permits Article of this UDC.

(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, shall comply with the Tree Density Standard of this Article as follows:

(1) Clearing, Clearing and Grubbing, or Grading only Permits.

Replacement trees proposed to be planted to achieve the Tree Density Standard of this Article which is not planted upon completion or prior to expiration of a Clearing, Clearing and Grubbing, or Grading Permit, shall be planted within 30 days of the completion or expiration of said permit unless a Performance Bond is posted with the Planning and Development Department.

(2) Development Permits.

Replacement trees proposed to be planted to achieve the Tree Density Standard of this Article which is not planted upon completion or prior to expiration of a Clearing, Clearing and Grubbing, or Grading Permit, shall be planted within 30 days of the completion or expiration of said permit unless a Performance Bond is posted with the Planning and Development Department.

720.05 Continuing Maintenance.

- (a) The owner, occupant, tenant, and respective agent of each, if any, shall be jointly and severally responsible for the perpetual maintenance and protection of buffers and landscape plantings required by this Article.
- (b) The Planning and Development Department is hereby authorized to order diseased, infested, dying, dead or damaged landscaping required herein to be replaced.
- (c) Buffers that, over a period of time, lose their screening ability shall be replanted to meet the requirements of this Article.
- (d) Replacement trees and landscaping shall be in accordance with the applicable provisions of this Article.

Section 721. Enforcement, Violation and Penalties.

721.01 Enforcement.

It shall be the responsibility of the Planning and Development Department to enforce this Article. The Planning and Development Director or his/her designee shall have the authority to revoke, suspend, or void any Clearing, Clearing and Grubbing, Grading, Development or Building Permit or to withhold issuance of a Certificate of Occupancy, and shall have the authority to suspend all work on a site or any portion thereof, where tree removal or damage occurs in violation of this Article or the provisions of the approved Tree Preservation/Replacement Plan for the site.

721.02 Violation and Penalty.

Any person violating provisions of this Article shall be guilty of violating duly adopted Article of the City of Duluth, and upon conviction by a court of competent jurisdiction, may be punished either by a fine not to exceed \$1,000, or confinement in the City jail not to exceed 60 days, or both. Each day of non-compliance shall constitute a separate offense. The Court shall have the power and authority to place any person found guilty of a violation of this Article on probation and to suspend or modify any fine or sentence. As a condition of said suspension, the Court may require payment of restitution or impose other punishment allowed by law which may include mandatory attendance at an educational program regarding tree preservation. The owner of any property wherein a violation exists, and any builder, contractor, or agent, who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

Section 722. Calculating Tree Density.

A basic requirement of this Code Division is that all applicable sites maintain a minimum tree density of 20 units per acre. The term “unit” is an expression of basal area (a standard forest inventory measurement), and is not synonymous with “tree.” A single tree equal to one tree unit is between 13 and 14 inches in diameter.

This density requirement must be met whether or not the site had trees prior to development. 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 below.

$$\text{SDF} = \text{EDF} + \text{RDF}$$

SDF (Site Density Factor): The minimum tree density requirement to be maintained on a developed site, expressed in units per acre.

EDF (Existing Density Factor): The total number of tree density units measured or calculated based on trees that will remain as conserved on site.

RDF (Replacement Density Factor): Density or total unit value of new trees to be planted on a site.

The SDF is calculated by multiplying the number of site acres by units per acre required:

Example: A 2.2 acre site has a SDF of 2.2×20 units per acre = 44 units

The EDF is calculated by converting the diameter of individual trees to density factor units using Table 7-B. An example of determining the EDF by identifying the trees inventoried in a tree save area is shown below:

Trees Found (DBH)	Quantity		Unit Value*		Total
5" - 8" pines	21	x	0.3	=	6.3
9" - 12" oaks	14	x	0.6	=	8.4
13" - 16" oaks	10	x	1.2	=	12
17" - 20" poplars	5	x	1.9	=	9.5
21" - 24" oaks	3	x	2.8	=	8.4
			Total		44.6 Density Units (EDF)

*See Table 7-B

Therefore, with a SDF requirement of 44 units, a tree save area totaling 44.6 density units satisfies the site density requirement. These trees will be protected in a tree save area.

To determine tree density on large sites, sample areas should be taken in areas to remain undisturbed. An approved timber cruising method (50' x 50' sample areas or Prism Method sampling) is required. Sample areas shall be flagged onsite, and locations delineated on the tree preservation plan.

Table 7-B: Converting Existing Tree Diameters (DBH) to Density Factor Units

Diameters	Density Factor Units
1 – 2 inches	Need not be counted
3 – 4 inches	0.1
5 – 8 inches	0.3
9 – 12 inches	0.6
13 – 16 inches	1.2
17 – 20 inches	1.9
21 – 24 inches	2.8
25 – 28 inches	3.8
29 – 32 inches	5.1
33 – 36 inches	6.5
37 – 40 inches	8.1

The unit value of any individual tree may be determined by using the formula: $(\text{Diameter}^2) \times .7854 \div 144$

Replacement Density Factor (RDF): If enough trees do not exist onsite to meet the tree density requirements, replacement trees will be needed. Calculate the RDF by subtracting the EDF from the SDF.

For instance, if it was determined that the 2.2. acre sample site from the previous example had only enough existing trees to yield a 30 unit per acre EDF, then replacement trees totaling 14 density factor units would be required: $\text{SDF (44)} - \text{EDF (30)} = \text{RDF (14)}$

The density factor credit unit value for each caliper size or replacement (new) trees is provided in Table 7-C. Replacement tree caliper is measured at a point on the trunk 6 inches from the base.

**Table 7-B: Conversion of Replacement Tree Caliper to Density Factor Units
(planted at ratio of 1 Overstory to 3 Understory trees)**

Caliper Size	Density Factor Units
1 inch	Not to be used
2 inches	0.4
3 inches	0.5
4 inches	0.7
5 inches	0.9
6 inches	1.0
7 inches	1.2
8 inches	1.3
9 inches	1.5

**Table 7-B: Conversion of Replacement Tree Caliper to Density Factor Units
(planted at ratio of 1 Overstory to 3 Understory trees)**

Caliper Size	Density Factor Units
10 inches	1.7
11 inches	1.9
12 inches	2.1
13 inches	2.3
14 inches	2.5
15 inches	2.8

NOTE: Tree diameter is measured at diameter breast height (dbh) or at any point below dbh for new trees or multi-trunked species, but in no case less than 6 inches from the ground.

NOTE: Tree diameter fractions may be rounded up if 0.5 inches or greater or rounded down if less than 0.5 inches.

NOTE: Multi-trunked ornamental trees shall be given credit by measuring the single largest trunk only. Tree-form shrubs shall not be given credit.

Container grown pine trees are given density factor credit as follows: 7 Gallons - .4 units. In order to qualify for credit, each such container grown pine tree shall be at least 4 feet tall, and have a trunk not less than 1 caliper inch. The use of 1 and 3 gallon pines is permitted only with prior approval.

The values in Table 7-C shall also be used to determine the quantity of replacement trees for any specimen tree recompense planting. Plantings replacing specimen trees are additional to planting required for site density requirements. See Sec. 723 below for specimen tree descriptions and requirements.

Section 723. Specimen Trees.

- (a) Some trees on a site warrant special consideration and encouragement for preservation. These trees are referred to as specimen trees.
- (b) The following criteria are used by the Planning and Development Director to identify specimen trees. Both the size and condition must be met for a tree to qualify.
- (c) No specimen tree may be removed without prior written approval from the Planning and Development Director.

723.02 Size Criteria

- (a) Overstory Trees: 24-inch diameter or larger hardwoods such as oaks, hickories, poplars, sweet gums, etc. 30-inch diameter or larger softwoods, such as pines, cedars, etc.
- (b) Understory Trees: 6-inch diameter or larger such as dogwoods, redbuds, etc.

723.03 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 (hardwoods only).
- (d) No major insect or pathological problems.

- (e) In order to encourage the preservation of specimen trees and the incorporation of these trees into the design of projects, additional density 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 would be 2 times the assigned unit value shown in Section 722.
- (f) If a specimen tree must be removed, due to criteria established in this Code Division, it will be replaced by a species with potential for comparable size and quality. All specimen trees removed must be replaced at a density of two (2.0) times the unit value of the tree removed, i.e., 30-inch diameter specimen trees (4.9 density units) must be replaced with 9.8 units. Species selection is subject to the approval of the Planning and Development Director.
- (g) Any specimen tree, which is removed without the appropriate review and approval of the Planning and Development Director, must be replaced by trees with a minimum caliper size of 5 inches per tree with a total density equal to 3 times the unit value of the tree removed. In addition, the City's Code Enforcement Officer will issue a citation for the removal of a specimen tree without appropriate review and approval of the Planning and Development Director requiring an appearance in the City's Municipal Court. Size alone will determine whether a tree was of specimen quality if the tree is removed without approval.
- (h) The Planning and Development Director may identify and require the preservation of a tree stand if it contains one or more specimen trees and the specimen trees are interlocked with other members of the stand in such a manner as to imperil the specimen tree if other members of the stand were to be removed.

Section 724. Examples of Single Family Lot Tree Planting Requirements.

Lot Size	- Minus Impervious Surface	X Times 20%	= Equals Plantable Area
12,000 SF (R-75)	2,740 SF (9,260 SF) 1500 SF Home 1120 SF drive & turn around 120 SF patio 9,260 SF pervious surface	9,260 x 20%	1,852 SF

(a) Tree Computation:

5 Overstory trees x 200 sq. ft. of plantable area = 1,000 plantable area
 12 Understory trees x 100 sq. ft. of plantable area = 1,200 plantable area
 2,200 plantable area

(b) Lot Computation:

18,000 sq.ft. – 3,400 sq. ft. impervious = 14,996 sq. ft. x 20% = 2,999 plantable area

(c) Tree Computation:

7 Overstory trees x 200 sq. ft. of plantable area = 1,400 plantable area
 21 Understory trees x 100 sq. ft. of plantable area = 2,100 plantable area
 3,500 plantable area

40,000 sq. ft. – 3,900 sq. ft. impervious = 36,100 sq. ft. x 20% = 7,220 plantable area (RA-200)

(d) Tree Computation:

17 Overstory trees x 200 sq. ft. of plantable area = 3,400 plantable area

51 Understory trees x 100 sq. ft. of plantable area = 5,100 plantable area

8,500 plantable area

DIVISION IV. INSTALLATION AND OPERATION OF IRRIGATION SYSTEMS OR DEVICES.

- (a) The installation of residential and commercial irrigation systems requires the issuance of a building permit from the Planning and Development Department.
- (b) Freeze sensors are to be installed and maintained on all residential and commercial irrigation systems equipped with automatic irrigation controllers, which will render the system inoperative at 35° Fahrenheit or below.
- (c) Rain sensor irrigation shut-off switches are required to be installed and maintained on all new residential and commercial irrigation systems and set to render the irrigation system inoperative at ¼ inch of moisture or more.
- (d) Be rendered inoperative by or at the direction of the residential and commercial irrigation system owner or operator pending repairs if damaged in a manner that results in leakage or excessive discharge of water from broken components.
- (e) Residential and commercial irrigation systems shall be installed per the manufacturer's instructions.

DIVISION V. OUTDOOR WATERING RESTRICTIONS

Section 725. Restriction on Outdoor Watering 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 upon 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 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 waste water by a designated user from a system permitted by the environmental protection division of the state department of natural resources to provide reclaimed wastewater;

- (e) 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;
- (f) Drip irrigation or irrigation using soaker hoses;
- (g) Hand watering with a hose with automatic cutoff or handheld container;
- (h) 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;
- (i) Watering horticultural crops held for sale, resale, or installation;
- (j) Watering athletic fields, golf courses, or public turf grass recreational areas;
- (k) Installation, maintenance, or calibration of irrigation systems; or
- (l) Hydroseeding.

Article 8. Environmental Protection

Article 8 sets out the minimum requirements and standards for the protection of the natural environment within Duluth, including restrictions on the use of land near certain rivers and streams, within water supply watersheds, within groundwater recharge areas susceptible to pollution, and in wetlands, in order to:

1. Protect the drinking water quality of the rivers, streams, reservoirs and aquifers that supply water to the residents of the city, the county and the state; and
2. Protect the natural habitat of animal and plant life relative to water resources; and
3. Limit the potentially damaging effects of flooding.

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Article 8. Environmental Protection

DIVISION I. STREAM BUFFER PROTECTION.

Section 801. Definitions Related to Stream Buffer Protection.

Buffer. The area of land immediately adjacent to the banks of a stream in its existing or enhanced state of vegetation (established by section 803.01(a) herein).

Chattahoochee Corridor. All land within 2,000 feet of the banks of the Chattahoochee River, including any impoundments thereon, or within the floodplain, whichever is greater, from directly below Buford Dam downstream to the downstream limits of Fulton and Douglas counties, including the entire bed of the river and any improvements and all islands therein.

Department. The Planning and Development Department.

Director. The Director of the Planning and Development Department or the director's designee.

Floodplain. Those lands subject 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 currently adopted land use plan; i.e., the regulatory flood.

Flowing Stream. Any stream that is portrayed on the most current United States Geologic Survey 7.5 minute quadrangle for the affected area.

Impervious Cover or Impervious Surface. Any paved, hardened or structural surface, including but not limited to , buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways, and other structures.

Impervious Surface. Materials that do not allow for water penetration such as concrete and asphalt.

Land Development:

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

Land Development Activity. Those actions or activities that comprise, facilitate or result in land development.

Land Disturbance. 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, clearing and grubbing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices.

Land Disturbance Activity. Those actions or activities that comprise, facilitate or result in land disturbance.

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

Metropolitan River Protection Act. 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.

Perennial Stream. A watercourse having a source, terminus, banks and channel through which water flows on a continuous basis as depicted on the most recent United States Geological Survey 7.5-minute quadrangle map (scale 1:24,000).

Permit. The permit issued by the Planning and Development Department required for undertaking land development activity.

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

Pervious Surface. Materials that do allow for water penetration such as mulch, crushed stone, elevated boardwalks with spacing between boards, and specially formulated pervious concrete designed to allow for water penetration.

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 Section 803.01(b) extending beyond any buffer applicable to the stream.

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 that are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Stream. Any stream, beginning at:

- (1) The location where the normal stream flow has wrested the vegetation. The normal stream flow is any flow that consists solely of base flow or consists of both base flow and direct runoff during any period of the year. Base flow results from the groundwater that enters the stream channel through the soil. This includes spring flows into streams. Direct runoff is the water entering stream channels promptly after rainfall or snow melts; or
- (2) A point in the stream channel with a drainage area of 20 acres or more; or
- (3) Where evidence indicates the presence of a stream in a drainage area of other than 20 acres, the Planning and Development Department may require field studies to verify the existence of a stream.

Stream Bank. The confining cut of a stream channel.

Stream Channel. The portion of a watercourse that contains the base flow of the stream.

Stream Protection Area. See “Protection Area.”

Trail, Multi-use. A hard surface (concrete, asphalt, boardwalk, etc.) transportation structure specifically constructed for alternative transportation such as walking, biking, roller blading, etc. and not intended to transport motorized vehicles such as cars, trucks, motorcycles, etc.

Utility. A public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, storm water systems and railroads or other utilities identified by Planning and Development Department.

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

Watershed. The land area that drains into a particular stream.

Section 802. Applicability.

Division I of this Article shall apply to all land development activity, including subdividing and platting activities, on property containing a stream protection area as defined in Section 801 of this Code Division. 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.

802.01 Grandfather Provisions.

Division I of this Article shall not apply to the following activities, when such activities were lawfully established prior to the effective date of this Code Division or its predecessor ordinance:

- (a) Work consisting of the repair, maintenance or replacement within the same disturbed area of any lawful use of land that is zoned and approved for such use.
- (b) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (c) Any lawful land development activity that was under construction, has a valid permit, or has submitted a valid and complete application for a permit.
- (d) Any lawful land development activity that has not been submitted for approval, but that is part of a Planned Development that has been conceptually approved.

802.02 Exemptions.

The following specific activities are exempt from Section 803, however any activity within a state waters' buffer must meet State requirements:

- (a) Activities for the purpose of building one of the following:
 - (1) A stream crossing by a driveway, transportation route including but not limited to bike paths and pedestrian trails, or utility line;
 - (2) Public water supply intake or public wastewater outfall structures;
 - (3) Land development necessary to provide access to a property;
 - (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;

- (5) Unpaved foot trails and paths;
 - (6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
 - (7) Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high flow velocities due to steep slopes.
- (b) Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land disturbance within a state waters' buffer must meet State requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in subsection 802.02(a), above.
 - (c) Land development activities within a dedicated transportation right-of-way existing at the time the requirements of this Code Division first took effect under the predecessor ordinance, or which are permitted under the terms of this Code Division.
 - (d) Within an easement of any utility existing at the time the requirements of this Code Division first took effect under the predecessor ordinance or approved under the terms of this Code Division, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
 - (e) Emergency work necessary to preserve life or property. However, when emergency work is performed under this subsection, the person performing it shall report such work to the Planning and Development Department on the next business day after commencement of the work. Within 10 business days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the Planning and Development Department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
 - (f) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.
 - (g) Pervious surface multi-use trails no more than 12 feet in width and activities related to construction of a multi-use trail no more than 12 feet in width, provided the trail complies with the requirements of the Soil Erosion, Sedimentation and Pollution Control section in Article 10 of this Development Code.
 - (h) Detention/water quality ponds provided said ponds comply with all other local, state and federal requirements including but limited to the Floodplain Management section of this Article, the , the Soil Erosion, Sedimentation Pollution Control section of Article 10 of this Development Code, and U.S Army Corp of Engineers wetlands regulations in this Article.

Section 803. Land Development Requirements.

803.01 Buffer and Setback Requirements.

All land development activity subject to this Code Division shall meet the following requirements:

- (a) An undisturbed buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. The land forming the bank is also considered part of the buffer for purposes of this Code Division.
- (b) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (c) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

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 pursuant to Section 803.02 herein.

803.02 Variance Procedures.

Variance requests from the requirements of this Code Division shall be submitted on an application form as prescribed by the Planning and Development Director or the director's designee, along with such fees as shall be established by the Mayor and City Council. The Planning and Development Director or the director's designee shall coordinate the review of each variance request with all other affected City of Duluth departments and shall forward such comments or recommendations as may be received to the Zoning Board of Appeals for action in their normal course of business. The review must include a recommendation from the Planning and Development Department.

This section describes how to apply for a variance from this Code Division, however any activity within a state waters' buffer must meet State requirements.

- (a) Variances may be granted in accordance with the following provisions:
 - (1) The project involves the construction of one single family home for residential use by the owner of the subject property on a parcel that was platted prior to the effective date of this Code Division, and its shape, topography or other existing physical condition prevents land development consistent with this Code Division, and the Planning and Development Department finds and determines that the requirements of this Code Division prohibit the otherwise lawful use of the property by the owner, the Zoning Board of Appeals may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel. The Zoning Board of Appeals is authorized to use a consent agenda to fulfill the terms of this Subsection.
 - (2) Except as provided above, the Zoning Board of Appeals shall grant no variance from any provision of this Code Division without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board. The Planning and Development Department shall follow the Public Hearing, or "notice", requirements for a variance to be heard by the Zoning Board of Appeals as provided in the Procedures and Permits Article of this UDC.

No application or reapplication for a variance affecting the same stream segment on a property shall be heard within 12 months from the date of last action by the Zoning Board of Appeals unless such 12-month period is waived by the Zoning Board of Appeals, and in no case may such application or reapplication be reconsidered in less than six months from the date of last action by the Zoning Board of Appeals.

- (b) Variances will not be considered when, following adoption of this Code Division, actions of any property owner of a given property have created conditions of a hardship on that property.
- (c) Variances will be considered only in the following cases:
 - (1) The applicant provides evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable; and
 - (2) The project involves the construction or repair of a structure that, by its nature, must be located within the buffer. Such structures include dams and detention/retention ponds; or
 - (3) Paved recreational foot trails and viewing areas, providing that impacts to the buffer are minimal; or
 - (4) The proposed land disturbing activity within the buffer will receive a permit from the United States Army Corps of Engineers (USACE) under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has received a mitigation plan to be implemented as a condition of such a permit. In addition, land disturbing activities in the buffer that are outside the USACE's jurisdiction must be mitigated; or
 - (5) The buffer intrusion is mitigated using the procedure established in the Gwinnett County *Stormwater Design Manual*; or
 - (6) A valid and complete application for rezoning of the property is submitted prior to the effective date of this Code Division and approval of the rezoning by the Board of Commissioners occurs after the effective date of this Code Division application, and the variance request is consistent with the intent of this Code Division factoring into account the property owner's reliance on standards in effect at the time of the rezoning.
- (d) At a minimum, a variance request shall include the following information:
 - (1) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
 - (2) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - (3) A dated site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - (4) Documentation that impacts to the buffer have been avoided or minimized to the fullest extent practicable;
 - (5) A calculation of the total area and length of the proposed intrusion;
 - (6) A stormwater management site plan, if applicable;
 - (7) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed;
 - (8) A description of the project, with details of the buffer disturbance, including estimated length of time for the disturbance and justification for why the disturbance is necessary;

- (9) Any other reasonable information related to the project that the Planning and Development Department may deem necessary to effectively evaluate the variance request;
 - (10) A copy of the permit application, supporting documentation, and proposed mitigation plan as submitted to the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, if applicable;
 - (11) A copy of the permit application, supporting documentation, and proposed mitigation plan as submitted to the Georgia Environmental Protection Division for a variance from the state waters' buffer; and
 - (12) A buffer mitigation plan in accordance with the procedure outlined in the Gwinnett County *Storm Water Design Manual*.
- (e) The following factors will be considered in determining whether to issue a variance:
- (1) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - (2) The locations of all streams on the property, including along property boundaries as determined from field inspection;
 - (3) The location and extent of the proposed buffer or setback intrusion; and,
 - (4) Whether alternative designs are possible which require less intrusion or no intrusion;
 - (5) The long-term and construction water-quality impacts of the proposed variance;
 - (6) Whether issuance of the variance is at least as protective of natural resources and the environment;
 - (7) The value of mitigation activities as calculated in accordance with the Gwinnett County *Stormwater Design Manual*.

Section 804. Special Buffer Regulations and Requirements.

804.01 Special Provisions.

- (a) In addition to the provisions of this Code Division, the following requirements shall apply. Which-ever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.
- (b) The grandfather provisions and variances sections of this Code Division do not apply to this Section 804. However, applicable exemptions are given below.

804.02 Chattahoochee Corridor.

- (a) Vegetation shall be left in its natural state, and impervious surfaces shall not be permitted, for a distance of 50 horizontal feet as measured from both banks of the Chattahoochee River and its impoundments, and for a distance of 35 horizontal feet as measured from both banks of all other flowing stream channels within the Chattahoochee Corridor, except for footpaths, designated public access areas, river or stream crossings by transportation facilities, public water supply intake structures, public wastewater treatment plant outfalls and utility line crossings.
- (b) Subject and in addition to the restrictions set forth in 804.02(a) herein, impervious surfaces and structures shall not be permitted within, on or over any land that is 150 horizontal feet or less from either bank of the Chattahoochee River and its impoundments, except for footpaths, desig-

nated public access areas, river or stream crossings by transportation facilities, public water supply intake structures, public wastewater treatment plant outfalls and water supply and sewerage manholes that are designed and built at grade, unless it is determined by the Atlanta Regional Commission, after consideration by a Committee of the Atlanta Regional Commission as authorized by the Atlanta Regional Commission, and based in part upon the affidavit of, and substantial evidence submitted by, a registered professional engineer qualified in water quality and hydrology that the impervious surfaces and structures will not be harmful to the water and land resources of the Chattahoochee Corridor, will not significantly impede the natural flow of flood waters and will not result in significant land erosion, stream bank erosion, siltation or water pollution.

- (c) Not including the impervious surfaces and structures that are excepted above, any impervious surfaces or structures that, in the judgment of the Atlanta Regional Commission, must legally be permitted within, on or over any land that is 150 horizontal feet or less from either bank of the Chattahoochee River and its impoundments on lots of record as of March 16, 1973 for the portion of the Chattahoochee Corridor between Buford Dam and the downstream limit of the City of Atlanta water intake, which were designated by the local governing authority for a single-family detached residential use, shall meet the following standard:
 - (1) For each 1-foot incursion into the 150-foot impervious surface buffer, 1 foot of natural vegetation shall be added to the 50-foot natural vegetation buffer.
 - (2) In the event that the Atlanta Regional Commission determines that legal, physical, biological or hydrologic conditions on the site prevent the addition of all the required natural vegetation, substitute measures satisfactory to the Atlanta Regional Commission shall be taken to provide an equivalent level of land and water resource protection.
- (d) See also the Procedures and Permits Article for applicable standards required under the Metropolitan River Protection Act.

804.03 Exemptions.

The following specific activities are exempt from Section 804.02; however, any activity within a state waters' buffer must meet State requirements:

- (a) Pervious surface multi-use trails no more than 12 feet in width and activities related to construction of a multi-use trail no more than 12 feet width, provided the trail complies with the requirements of the Soil Erosion, Sedimentation and Pollution Control section of Article 10 of this Code.
- (b) Detention/water quality ponds provided said ponds comply with all other local, state and federal requirements including but limited to the Flood Damage Prevention section of this Article, the Soil Erosion, Sedimentation and Pollution Control section of Article 10 of this Development Code, and U.S Army Corp of Engineers wetlands regulations in this Article.
- (c) Additional Information Requirements for Development on Buffer Zone Properties.

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 2-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 Planning and Development Department may reasonably deem necessary for review of the application and to insure that the buffer zone requirements are addressed in the approval process.
- (d) All buffer and setback areas must be recorded on the final plat of the property following plan approval.

Section 805. Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this Code Division shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon City of Duluth, its officers or employees, for injury or damage to persons or property.

Section 806. Inspection.

- (a) The Planning and Development Department may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist representatives of either department in making such inspections. The Director of the Planning and Development Department shall have the authority to conduct such investigations as he or she may reasonably deem necessary to carry out the duties as prescribed in this Code Division, 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.
- (b) No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

Section 807. Violations, Enforcement and Penalties.

Any action or inaction that violates the provisions of this Code Division or the requirements of an approved plan or permit shall be subject to the enforcement actions or penalties outlined herein. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and also may be abated by injunctive or other equitable relief. The imposition of any of the enforcement actions or penalties described herein shall not prevent such equitable relief.

807.01 Enforcement Procedures.

The following are the enforcement procedures authorized by Code Division. In the event the owner or responsible person fails to correct the violations after the deadline contained in the Notice of Violation, the Director of the Planning and Development Department is authorized to take or impose any one or more of the additional actions contained herein.

- (a) Notices of Violation.

Enforcement shall begin with the issuance of a written Notice of Violation to the owner or responsible person by the Director of the Planning and Development Department. The notice may be

delivered personally or sent by first class mail. The Notice of Violation shall contain at least the following information:

- (1) The name and address of the owner or responsible person;
- (2) The location or address of the site upon which the violation is occurring;
- (3) Description of the nature of the violation;
- (4) Description of the remedial actions or measures necessary to bring an action or inaction into compliance with a permit, approved plan or this Code Division;
- (5) The deadline or completion date of any such remedial actions or measures; and
- (6) A statement of the penalty or penalties that may be assessed against the owner or responsible person to whom the Notice of Violation is directed.

(b) Stop Work Orders.

The Director of the Planning and Development Department is authorized to issue Stop Work Orders to an owner or responsible person. Stop Work Orders are effective immediately and shall remain in effect until the necessary corrective actions or remedial measures as set forth in the Notice of Violation have occurred. Stop Work Orders may be withdrawn or modified by the Director of the Planning and Development Department or the director's designee in order to enable an owner or responsible person to take necessary remedial actions or measures to correct the violations.

(c) Refusal to Issue Certificates of Occupancy or Completion.

The Director of the Planning and Development Department is authorized to refuse to issue Certificates of Occupancy or Completion for the building or other improvements constructed or being constructed on a site until the owner or responsible person has taken the remedial actions or measures as set forth in the Notice of Violation or has otherwise corrected the violations described therein.

(d) Suspension, Revocation, or Modification of Permit.

The Director of the Planning and Development Department is authorized to suspend, revoke or modify a permit that was issued authorizing land disturbing activities or development. The Director of the Planning and Development Department is authorized to reinstate a suspended, revoked or modified permit after the owner or responsible person has taken the remedial actions or measures stated in the Notice of Violation or has otherwise corrected the violations described therein. The Director of the Planning and Development Department is also authorized to reinstate such permit, which may include conditions as the Director of the Planning and Development Department may deem necessary, to enable the owner or responsible person to take the necessary remedial actions or measures to correct the violations.

(e) Refusal to Approve Final Subdivision Plats.

The Director of the Planning and Development Department is authorized to refuse to approve Final Plats until the owner or responsible person has taken the remedial actions or measures set forth in the Notice of Violation or has otherwise corrected the violations described therein.

(f) Issuance of Citations or Summons to Court.

The Director of the Planning and Development Department is authorized to issue a citation or summons to the owner or responsible person requiring such person to appear in a court of competent jurisdiction to answer charges for violations of this Code Division.

807.02 Legal Penalties and/or Remedies.

(a) Fine and/or Sentence.

Any person convicted by a court of competent jurisdiction of violating any provision of this Code Division shall be guilty of violating a duly adopted ordinance of the City and shall be punished either by a fine not less than \$100 per day and not greater than \$1,000 per day, or by a sentence of imprisonment not to exceed 60 days in jail, or both a fine and jail or work alternate. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(b) Other Legal Remedies.

In any case in which a violation of this Code Division has occurred, the City, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

807.03 Petition.

In any case in which any land is, or is proposed to be, used or activities are undertaken in violation of this Code Division or any amendment thereto adopted by the Mayor and City Council in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

Section 808. Administrative Appeal and Judicial Review.

808.01 Administration.

This Code Division shall be administered, interpreted, and enforced by the Director of the Planning and Development Department.

808.02 Administrative Appeal.

Appeals of the interpretation by Director of the Department of the Planning and Development Department shall first be submitted in writing (on a form provided by the Planning and Development Department) to either director who shall review the request in a timely manner and receive comments from other affected departments. Such appeal shall be made within 15 days after the decision to be appealed. The appeal thereupon shall be forwarded to the Board of Appeals for action in their normal course of business.

808.03 Judicial Review.

Any person aggrieved by a decision or order of the Director of the Department of Planning and Development Department, after exhausting all administrative remedies, shall have the right to appeal certiorari to the Superior Court of Gwinnett County.

DIVISION II. CHATTAHOOCHEE RIVER TRIBUTARY PROTECTION.**Section 809. Regulations Adopted by Reference.**

The Chattahoochee River Tributary Protection Ordinance adopted by the City on April 8, 1985, is incorporated herein by reference as if fully set out in this Code. Copies of such ordinance are on file and available for inspection in the offices of the City.

DIVISION III. WETLANDS PROTECTION.**Section 810. Purpose.**

- (a) The wetlands in the City of Duluth are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic wellbeing of many communities within the State of Georgia.
- (b) Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.
- (c) The purpose of this Code Division is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

Section 811. Definitions Relating to Wetlands Protection.

Wetlands. Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Generalized Wetlands Map. The current U.S. Fish and Wildlife Service National Wetlands Inventory maps for the City of Duluth, Georgia.

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

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

Regulated Activity. Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

Section 812. Establishment of the Wetlands Protection District.

- (a) The Wetlands Protection District is hereby established which shall correspond to all lands within the jurisdiction of the City of Duluth, Georgia that are mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the Generalized Wetlands Map and is hereby adopted by reference and declared to be a part of this Article, together with all explanatory matter thereon and attached thereto.
- (b) The Generalized Wetlands Map does not represent the boundaries of jurisdictional wetlands within City of Duluth and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this Code Division does not relieve the landowner from federal or state permitting requirements.

Section 813. Protection Criteria.

Requirement for Local Permit or Permission. No regulated activity will be permitted within the Wetlands Protection District without written permission or a permit from the City of Duluth. If the area proposed for development is located within 50 feet of a Wetlands Protection District boundary, as determined by the City of Duluth Planning and Development Director using the Generalized Wetlands Map, a U.S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a Section 404 Permit or Letter of Permission is issued.

Section 814. Allowed Uses.

The following uses shall be allowed as of right within the Wetlands Protection District to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein. [The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.]

- (a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the United States in such a way that would require an individual 404 Permit.
- (b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- (c) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.
- (d) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
- (e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.
- (f) Education, scientific research, and nature trails.

Section 815. Prohibited Uses.

The following uses are not permitted within the Wetlands Protection District.

- (a) Receiving areas for toxic or hazardous waste or other contaminants; and

- (b) Hazardous or sanitary waste landfills.

Section 816. Administration and Enforcement Procedures.

816.01 Site Plans.

Application for a local development permit within the Groundwater Recharge Areas shall include a site plan, drawn at a scale of 1 inch = 50 feet, with the following information:

- (a) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal scale and vertical scale must be shown on the cross-sectional drawings.
- (b) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (c) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 50 feet.
- (d) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (e) Elevations of the site and adjacent lands within 50 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to 2%.
- (f) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (g) All proposed temporary disruptions or diversions of local hydrology.

816.02 Activities to Comply with Site Plan.

All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan that would alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the Director of the Planning and Development Department. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

816.03 Exemptions to Site Plan Requirements.

The following activities and developments are exempt from the requirement for detailed site plans.

- (a) Single-family detached homes constructed within a subdivision of fewer than five parcels.
- (b) Repairs to a facility that is part of a previously approved and permitted development.
- (c) Construction of minor structures, such as sheds or additions to single family residences.

816.04 Review Procedures.

The application shall be made to the City of Duluth Planning and Development Department and will be reviewed within 15 days. At the time of the application, the applicant shall pay a filing fee as specified by City of Duluth Planning and Development Department. Filing fees up to the larger of \$500 or \$1,000 per acre may be required to evaluate the application. This fee may be used to retain expert consultants

who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the Director of the Planning and Development Department. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the Director of the Planning and Development Department. The applicant will receive written notification of the findings of the Director of the Planning and Development Department. If the review process is not completed within 30 days, the application is considered to be approved. Decisions of the Director of the Planning and Development Department may be appealed to the City Council.

816.05 Duration of Permit Validity.

- (a) If construction described in the development permit has not commenced within 6 months from the date of issuance, the permit shall expire.
- (b) If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 6 months after the date that work ceased.
- (c) Written notice of pending expiration of the development permit shall be issued by the Director of the Planning and Development Department.

816.06 Penalties.

- (a) When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the Director of the Planning and Development Department.
- (b) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the discretion of the Director of the Planning and Development Department.
- (c) If the Director of the Planning and Development Department discovers a violation of this Code Division that also constitutes a violation of any provision of the Clean Water Act as amended, the City Council shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

816.07 Suspension, Revocation.

The Director of the Planning and Development Department may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The Director of the Planning and Development Department shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

816.08 Judicial Review.

- (a) Jurisdiction.

All final decisions of the City of Duluth concerning denial, approval or conditional approval of a permit shall be reviewable in the Gwinnett County Superior Court.

- (b) Alternative Actions.

Based on these proceedings and the decision of the Gwinnett County Superior Court, the City Council or its designee may, within the time specified by the Gwinnett County Superior Court, elect to:

- (1) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
- (2) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
- (3) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City Council.

816.09 Amendments.

These regulations and the Pollution Susceptibility Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

DIVISION IV. WATER SUPPLY WATERSHEDS.

Section 817. Purpose.

- (a) In order to provide for the health, safety, and welfare of the public and a healthy economic climate within the City of Duluth and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land-disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering waters resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.
- (b) The purpose of this Code Division is to establish measures to protect the quality and quantity of the present and future water supply of the City of Duluth; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This Code Division shall apply to all existing and proposed water supply watersheds within the City of Duluth.

Section 818. Definitions Related to Water Supply Watersheds.

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

Corridor. All land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in this Code Division.

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

Large Water Supply Watershed. A watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Perennial Stream. A stream that flows throughout the whole year as indicated on a USGS Quad map.

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

Water Supply Watershed. The area of land upstream of a governmentally owned public drinking water intake.

Section 819. Establishment of a Water Supply Watershed District.

- (a) The Chattahoochee Water Supply Watershed District is hereby designated and shall comprise the land that drains to the Chattahoochee River. The boundaries of these overlays are defined by the ridgelines of the respective watershed and the boundary of a radius of 7 miles upstream of the respective public water supply intakes or reservoirs. This overlay shall be further delineated and defined on the Water Supply Watershed Protection District Overlay Map of the City of Duluth. The Map is hereby incorporated into and made a part of this Code Division by reference.
- (b) The following water supply watershed district is hereby defined and the boundaries shall be identified on the Water Supply Watershed District Overlay Map.
- (c) The Chattahoochee River is a large water supply watershed. Intakes for the Atlanta-Fulton Water Resources and the DeKalb County Water System are located on this river within a 7-mile radius upstream from the City of Duluth. This water supply watershed does not contain a reservoir within the City of Duluth.

Section 820. Protection Criteria.

820.01 Regulations.

The following regulations shall apply to the Chattahoochee River Water Supply Watershed identified on the Adopted Map as a large water supply watershed without a reservoir within the City of Duluth.

- (a) New facilities, located within 7 miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.
- (b) The corridors of all perennial streams outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake must be protected by the following criteria:
 - (1) A buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
 - (2) No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks.
 - (3) Septic tanks and septic tank drain fields are prohibited in the 75-foot setback area as described in subparagraph 820.01(b)(2) above.
- (c) The impervious surface area of any development, including all public and private structures, utilities, or facilities, of the entire water supply watershed shall be limited to 25%, or existing use, whichever is greater.

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

820.02 Exemptions.

The following uses shall be exempted:

- (a) Land uses existing prior to the adoption of this Code Division.
- (b) Mining activities permitted by the Department of Natural Resources under the Surface Mining Act.
- (c) Utilities from the stream corridor buffer and setback area provisions in accordance with the following conditions if the utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas:
 - (1) The utilities shall be located as far from the stream bank as reasonably possible.
 - (2) The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.
 - (3) The utilities shall not impair the quality of the drinking water stream.
- (d) Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions.
 - (1) The activity shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture.
 - (2) The activity shall not impair the quality of the drinking water stream.

Section 821. Administration and Enforcement.

821.01 Site Plans.

Application for a local development permit within the Chattahoochee River Water Supply Watershed shall include a site plan, drawn at a scale of 1 inch = 50 feet, with the following information:

- (a) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal scale and vertical scale must be shown on the cross-sectional drawings.
- (b) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (c) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 50 feet.
- (d) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (e) Elevations of the site and adjacent lands within 50 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to 2%.
- (f) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

- (g) All proposed temporary disruptions or diversions of local hydrology.

821.02 Activities to Comply with Site Plan.

All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan that would alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the Director of the Planning and Development Department. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

821.03 Exemptions to Site Plan Requirements.

The following activities and developments are exempt from the requirement for detailed site plans.

- (a) Single family detached homes constructed within a subdivision of fewer than five parcels.
- (b) Repairs to a facility that is part of a previously approved and permitted development.
- (c) Construction of minor structures, such as sheds or additions to single family residences.

821.04 Review Procedures.

The application shall be made to the City of Duluth Planning and Development Department and will be reviewed within 15 days. At the time of the application, the applicant shall pay a filing fee as specified by City of Duluth Planning and Development Department. Filing fees up to the larger of \$500 or \$1,000 per acre may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the Director of the Planning and Development Department. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the Director of the Planning and Development Department. The applicant will receive written notification of the findings of the Director of the Planning and Development Department. If the review process is not completed within 30 days, the application is considered to be approved. Decisions of the Director of the Planning and Development Department may be appealed to the City Council.

821.05 Duration of Permit Validity.

- (a) If construction described in the development permit has not commenced within 6 months from the date of issuance, the permit shall expire.
- (b) If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 6 months after the date that work ceased.
- (c) Written notice of pending expiration of the development permit shall be issued by the Director of the Planning and Development Department.

821.06 Penalties.

- (a) When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the Director of License and Permits and/or the Director of the Planning and Development Department.
- (b) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator may be required to restore the affected land to its original contours and to restore

vegetation, as far as practicable, at the discretion of the Director of the Planning and Development Department.

- (c) If the Director of the Planning and Development Department discovers a violation of this Code Division that also constitutes a violation of any provision of the Clean Water Act as amended, the City Council shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

821.07 Suspension, Revocation.

The Director of the Planning and Development Department may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The Director of the Planning and Development Department shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

821.08 Judicial Review.

- (a) Jurisdiction.

All final decisions of the City of Duluth concerning denial, approval or conditional approval of a permit shall be reviewable in the Gwinnett County Superior Court.

- (b) Alternative Actions.

Based on these proceedings and the decision of the Gwinnett County Superior Court, the City Council or its designee may, within the time specified by the Gwinnett County Superior Court, elect to:

- (1) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
- (2) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance);
or
- (3) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City Council.

DIVISION V. GROUNDWATER RECHARGE AREAS.

Section 822. Purpose.

- (a) In order to provide for the health, safety, and welfare of the public and a healthy economic climate within the City of Duluth and surrounding communities, it is essential that the quality of public drinking water be ensured. For this reason, it is necessary to protect the subsurface water resources that City of Duluth and surrounding communities rely on as sources of public water.
- (b) Groundwater resources are contained within underground reservoirs known as aquifers. These aquifers are zones of rock beneath the earth's surface capable of containing or producing water from a well. They occupy vast regions of the subsurface and are replenished by infiltration of surface water runoff in zones of the surface known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas. It is, therefore, necessary to manage land use within groundwater recharge areas in order to ensure that pollution threats are minimized.

Section 823. Definitions Related to Groundwater Recharge Areas.

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

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

Pollution Susceptibility. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.

Pollution Susceptibility Map. The relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. (Georgia Department of Natural Resources *Hydrologic Atlas 20: Groundwater Pollution Susceptibility Map of Georgia*.)

Recharge Area. Any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.

Significant Recharge Areas. Those areas mapped by the Georgia Department of Natural Resources in *Hydrologic Atlas 18*, 1989 edition.

Section 824. Establishment of the Groundwater Recharge Area Protection District.

- (a) The Groundwater Recharge Area District is hereby established which shall correspond to all lands within the jurisdiction of the City of Duluth, Georgia that are mapped as significant recharge areas by the Georgia Department of Natural Resources in *Hydrologic Atlas 18*, 1989 edition. Said map is hereby adopted and made a part of this Article.
- (b) Determination of Pollution Susceptibility.
 - (1) Each recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on the *Georgia Pollution Susceptibility Map, Hydrologic Atlas 20*, 1992 edition. Said map is hereby adopted and made a part of this Code Division.
 - (2) A copy of both maps can be found in the offices of the Planning and Development Department.

Section 825. Protection Criteria.

- (a) No construction may proceed on a building or manufactured home to be served by a septic tank unless the Gwinnett County Environment Health Department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resources' *Manual for On-Site Sewage Management Systems* (hereinafter DHR Manual), and Section 825(b) and Section 825(c), below.
- (b) New homes served by a septic tank/drain field system shall be on lots having minimum size limitations as follows, based on application of Table MT-1 of the DHR Manual (hereinafter DHR Table MT-1). The minimums set forth in Table MT-1 may be increased further based on consideration of other factors, as set forth in Sections A-F of the DHR Manual.
 - (1) 150% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a high pollution susceptibility area;

- (2) 125% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a medium pollution susceptibility area;
- (3) 110% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a low pollution susceptibility area.
- (c) New manufactured home parks served by septic tank/drain field systems shall have lots or spaces having minimum size limitations as follows, based on application of Table MT-2 of the DHR Manual (hereinafter DHR Table MT-2). The minimums set forth in Table MT-2 may be increased further based on consideration of other factors, as set forth in Sections A-F of the DHR Manual.
 - (1) 150% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a high pollution susceptibility area;
 - (2) 125% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a medium pollution susceptibility area;
 - (3) 110% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a low pollution susceptibility area.
- (d) New agricultural waste impoundment sites shall be lined if they are within a high pollution susceptibility area; a medium pollution susceptibility area and exceed 15 acre-feet; or a low pollution susceptibility area and exceed 50 acre-feet. As a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the Natural Resource and Conservation Service.
- (e) New above-ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110% of the volume of such tanks or 110% of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.
- (f) New facilities that handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and local fire code requirements.
- (g) Permanent storm water infiltration basins shall not be constructed in areas having high pollution susceptibility.

Section 826. Exemptions.

Any lot of record approved prior to the adoption of this Code Division is exempt from the minimum lot size requirements contained in Section 825(b) and Section 825(c) of this Article.

Section 827. Administration and Enforcement Procedures.

827.01 Site Plans.

Application for a local development permit within the jurisdiction of the City of Duluth shall include a site plan, drawn at a scale of 1 inch = 50 feet, with the following information:

- (a) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross-sectional drawings showing existing and proposed grades. Elevations, horizontal scale and vertical scale must be shown on the cross-sectional drawings.

- (b) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (c) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 50 feet.
- (d) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (e) Elevations of the site and adjacent lands within 50 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to 2%.
- (f) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (g) All proposed temporary disruptions or diversions of local hydrology.

827.02 Activities to Comply with Site Plan.

All development activities or site work conducted after approval of the site plan shall conform to the specifications of said site plan. Significant changes to the site plan that would alter the amount and velocity of storm water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of the overall appearance of the development as proposed, can be amended only with the approval of the Director of the Planning and Development Department. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

827.03 Exemptions to Site Plan Requirements.

The following activities and developments are exempt from the requirement for detailed site plans.

- (a) Single family detached homes constructed within a subdivision of fewer than five parcels.
- (b) Repairs to a facility that is part of a previously approved and permitted development.
- (c) Construction of minor structures, such as sheds or additions to single family residences.

827.04 Review Procedures.

The application shall be made to the City of Duluth Planning and Development Department and will be reviewed within 15 days. At the time of the application, the applicant shall pay a filing fee as specified by City of Duluth Planning and Development Department. Filing fees up to the largest of \$500 or \$1,000 per acre may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment, mitigation, and wetland boundary determinations, as deemed necessary by the Director of the Planning and Development Department. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the Director of the Planning and Development Department. The applicant will receive written notification of the findings of the Director of the Planning and Development Department. If the review process is not completed within 30 days, the application is considered to be approved. Decisions of the Director of the Planning and Development Department may be appealed to the City Council.

827.05 Duration of Permit Validity.

- (a) If construction described in the development permit has not commenced within 6 months from the date of issuance, the permit shall expire.

- (b) If construction described in the development permit is suspended or abandoned after work has commenced, the permit shall expire 6 months after the date that work ceased.
- (c) Written notice of pending expiration of the development permit shall be issued by the Director of the Planning and Development Department.

827.06 Penalties.

- (a) When a building or other structure has been constructed in violation of this section, the violator may be required to remove the structure at the discretion of the Director of the Planning and Development Department.
- (b) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the discretion of the Director of the Planning and Development Department.
- (c) If the Director of the Planning and Development Department discovers a violation of this Code Division that also constitutes a violation of any provision of the Clean Water Act as amended, the City Council shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

827.07 Suspension, Revocation.

The Director of the Planning and Development Department may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The Director of the Planning and Development Department shall cause notice of denial, issuance, conditional issuance, revocation or suspension of a permit to be published in a daily newspaper having a broad circulation in the area where the wetland is located.

827.08 Judicial Review.

- (a) Jurisdiction.

All final decisions of the City of Duluth concerning denial, approval or conditional approval of a permit shall be reviewable in the Gwinnett County Superior Court.

- (b) Alternative Actions.

Based on these proceedings and the decision of the City of Gwinnett County Superior Court, the City Council or its designee may, within the time specified by the Gwinnett County Superior Court, elect to:

- (1) Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
- (2) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance);
or
- (3) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City Council.

- (c) Amendments.

These regulations and the Pollution Susceptibility Map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

DIVISION VI. FLOODPLAIN MANAGEMENT

Section 828. 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, telephone and sewer lines, streets and bridges located in floodplains; and
 - (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.
- (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 Code Division and establishes this set of floodplain management and flood hazard reduction policies 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.

Section 829. Purpose and Intent.

The purpose of this Division VI of this Article 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:

- (a) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (b) 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;
- (c) Control filling, grading, dredging and other development which may increase flood damage or erosion;

- (d) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (e) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
- (f) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

Section 830. Definitions Related to Floodplain Management.

Addition (to an existing building). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

Appeal. A request for a review of the Director of the Planning and Development Department's interpretation of any provision of this Code Division.

Area of future-conditions flood hazard. The land area that would be inundated by the 1%-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 base flood depths from 1 to 3 feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard. The land 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 (including A, A1-30, A-99, AE, AO, AH, and AR on the FHBM or the FIRM), all floodplain and flood prone areas at or below the future-conditions flood elevation, and all other flood prone areas as referenced in Section 833. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.

Accessory Structure or Facility. A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the primary structure.

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year, also known as the one hundred-year flood.

Base Flood Elevation or BFE. The highest water surface elevation anticipated at any given point during the base flood.

Basement. That portion of a building having its floor subgrade (below ground level) on all sides.

Building. Any structure built for support, shelter, or enclosure for any occupancy or storage.

Development. Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

Elevated Building. A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing Construction. Any structure for which the "start of construction" commenced before December 17, 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 final site grading or the pouring of concrete pads) is completed before December 17, 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. FEMA means the Federal Emergency Management Agency.

FEMA. The Federal Emergency Management Agency.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map or FHBM. An official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as zone A.

Flood Insurance Rate Map or FIRM. An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study or FIS. The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain. Any land area susceptible to flooding.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway or Regulatory Floodway. The channel of a stream or other watercourse and the adjacent areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the base flood elevation more than 1 foot.

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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 flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.

Future-Conditions Floodplain. Any land area susceptible to flooding by the future-conditions flood.

Future-Conditions Hydrology. The flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

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 and determined as eligible 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 and determined as eligible by communities with historic preservation programs that have been certified either:
 - (5) By an approved state program as determined by the secretary of the interior, or
 - (6) Directly by the secretary of the interior in states without approved programs.

Lowest Floor. The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Article.

Manufactured Home. A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Mean Sea Level. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Article the term is synonymous with national geodetic vertical datum (NGVD) and/or the North American vertical datum (NAVD) of 1988.

National Geodetic Vertical Datum (NGVD). As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction. Any structure (see definition in this Section) for which the "start of construction" commenced after December 17, 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 December 17, 1975.

North American Vertical Datum (NAVD) of 1988. A vertical control used as a reference for establishing varying elevations within 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.

Permit. The permit issued by the Planning and Development Department to the applicant which is required prior to undertaking any development activity.

Recreational Vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 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 damages 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. The date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes 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 and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are not exempt from any Article requirements). 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 that is principally above ground, a manufactured home, a gas or liquid storage tank.

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.

Substantial Improvement. Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure prior to the improvement. The market value of the building means:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement; or
- (2) In the case of damage, the value of the structure prior to the damage occurring.
- (3) This term includes structures, which have incurred repetitive loss or substantial damage regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the code enforcement official, and not solely triggered by an improvement or repair project.

Substantially Improved. Existing manufactured home park or subdivision is where 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.

Variance. A grant of relief from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Section 831. Applicability.

Division VI of this Article shall be applicable to all areas of special flood hazard within the city.

Section 832. Designation and Duties of Division Administrator.

832.01 Designation of Division Administrator.

The Planning and Development Director is hereby appointed to administer and implement the provisions of this Code Division.

832.02 Duties and Responsibilities of the Administrator

Duties of the Planning and Development Director shall include, but shall not be limited to:

- (a) Review all development applications and permits to assure that the requirements of this Article have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- (b) Require that copies of all necessary permits from 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, be provided and maintained on file;

- (c) When base flood elevation data or floodway data have not been provided, then the Director of the Planning and Development Department shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to meet the provisions of Section 836 and Section 837;
- (d) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
- (e) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;
- (f) When flood-proofing is utilized for a non-residential structure, the Director of the Planning and Development Department shall obtain certification of design criteria from a registered professional engineer or architect;
- (g) Notify affected adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Director of the Planning and Development Department shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; and,
- (i) All records pertaining to the provisions of this Article shall be maintained in the office of the Director of the Planning and Development Department and shall be open for public inspection
- (j) Coordinate all FIRM revisions with GA DNR and FEMA; and.
- (k) Review variance applications and make recommendations to the (appointed board).

Section 833. Basis for Area of Special Flood Hazard-Flood Area Maps and Studies.

For the purposes of this Code Division, the following are adopted by reference:

- (a) The flood insurance study (FIS), dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference. For those land areas acquired by the City through annexation, the current effective FIS and data for Gwinnett County, dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.
- (b) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the one hundred-year floodplain and flood-prone areas include:
 - (1) 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; or
 - (2) Any base flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by the Planning and Development Department.

- (c) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood-prone areas include:
 - (1) Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the city; or
 - (2) Any future-conditions flood study authored by a registered professional engineer in the state, which has been prepared by FEMA approved methodology and approved by the Duluth Planning and Development Department.
- (d) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the office of the Planning and Development Department.

Section 834. Warning and Disclaimer of Liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made there under.

Section 835. Permit Procedures and Requirements

835.01 Permit Application Requirements.

- (a) No owner or developer shall perform any development activities on a site where an area of special flood hazard is located without first meeting the requirements of this Code Section prior to commencing the proposed activity.
- (b) Unless specifically excluded by this Article, any landowner or developer desiring a permit for a development activity shall submit to the Duluth Planning and Development Department a permit application on a form provided by the Planning and Development Department for that purpose.
- (c) No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this Code Division.

835.02 Floodplain Management Plan Requirements.

- (a) An application for a development project with any area of special flood hazard located on the site will be required to include a floodplain management / flood damage prevention plan. This plan shall 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 and/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 twenty-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 registered 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 non-residential floodproofed structure meets the criteria in 837.02(b);
 - d. For enclosures below the base flood elevation, location and total net area of foundation openings as required in Section 837.01(e).
 - e. Design plans certified by a registered 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 floodway widths, 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 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 Code Division.
- (b) The approved floodplain management/flood damage prevention plan shall 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 and/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.

835.03 Construction Stage Submittal Requirements.

- (a) Certification Required.
- (1) For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the Director of the Planning and Development Department a certified as-built elevation certificate or flood-proofing certificate for nonresidential construction including the lowest floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed.

- (2) A final elevation certificate shall be provided after completion of construction including final grading of the site.
 - (3) Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
 - (4) When flood-proofing is utilized for non-residential structures, required certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same using the FEMA Floodproofing Certificate. This certification shall also include the design and operation/maintenance plan to assure continued viability of the floodproofing measures.
 - (5) Any work undertaken prior to approval of these certifications shall be at the permit holder's risk.
- (b) Review of Certification Data.
- (1) The Director of Planning and Development Department shall review the above referenced certification data submitted.
 - (2) Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed.
 - (3) Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

Section 836. Standards for Development.

836.01 Definition of Floodplain Boundaries.

- (a) Studied "A" zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.
- (b) For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by the Planning and Development Department. If future-conditions elevation data is not available from the Planning and Development Department, then it shall be determined by a registered professional engineer using a method approved by FEMA and the Planning and Development Department.

836.02 Definition of Floodway Boundaries.

- (a) The width of a floodway shall be determined from the FIS or FEMA approved flood study.
- (b) For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the Planning and Development Department.
- (c) If floodway data is not available from the Planning and Development Department, then it shall be determined by a registered professional engineer using a method approved by FEMA and the Planning and Development Department.

836.03 General Standards.

- (a) No development shall be allowed within any Area of Special Flood Hazard or any future-conditions floodplain that could result in any of the following:
 - (1) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;

- (2) Reducing the base flood or future-conditions flood storage capacity;
 - (3) 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,
 - (4) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- (b) Any development within any Area of Special Flood Hazard or any future-conditions floodplain allowed under Subsection (a) above shall also meet the following conditions:
- (1) Compensation for storage capacity shall 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 shall 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 shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;
 - (2) Cut areas shall be stabilized and graded to a slope of no less than 2%;
 - (3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
 - (4) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of 836.04.
 - (5) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
 - (6) Any significant physical changes to the base flood floodplain shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the Planning and Development Department using the community consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final letter of map revision (LOMR).

836.04 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/or floodways for which the provisions of 836.04 apply. This study shall be prepared by a currently registered professional engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the Planning and Development Department prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- (a) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (b) Step-backwater analysis, using a FEMA-approved methodology approved by the Planning and Development Department. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;
- (c) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
- (d) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

836.05 Floodway Encroachments.

Located within areas of special flood hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in (b) below.
- (b) 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 shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,
- (c) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Planning and Development Department until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA and no-rise certification is approved by Planning and Development Department.

836.06 Maintenance Requirements.

- (a) The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished.
- (b) The Planning and Development Department may direct the property owner (at no cost to 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 Planning and Development Department.

Section 837. Provisions for Flood Damage Reduction.

837.01 General Standards.

In all areas of special flood hazard the following provisions apply:

- (a) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of Sections 836.03, 836.04 and 836.05 have been met;
- (b) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (c) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (d) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (e) Elevated Buildings. All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - a. Provide a minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than 1 foot above grade; and,
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
 - (2) So as not to violate the "lowest floor" criteria of this Article, the unfinished and flood resistant enclosure shall 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,
 - (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (f) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/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;
- (g) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (h) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (i) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (j) On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding; and,

- (k) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of Code Division, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
- (l) If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.
- (m) All proposed development shall include adequate drainage and stormwater management facilities per the requirements of (jurisdiction) to reduce exposure to flood hazards.
- (n) Other public utilities such as gas and electric systems shall be located and constructed to avoid impairment to them, or public safety hazards from them, during flooding.
- (o) When only a portion of a proposed structure is located within a flood zone or the future conditions floodplain, the entire structure shall meet the requirements of this Code Division.
- (p) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reasonably safe from flooding:
 - (1) All such proposals shall be consistent with the need to minimize flood damage within the flood-prone area;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and
 - (3) Adequate drainage shall be provided to reduce exposure to flood hazards.

837.02 Building Standards for Structures and Buildings within the Future-Conditions Floodplain.

The following provisions, in addition to those in Section 837.01, shall apply:

- (a) Residential Buildings.
 - (1) New Construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sections 836.03, 836.04 and 836.05 have been met. If all of the requirements of Sections 836.03, 836.04 and 836.05 have been met, all new construction shall 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 equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 837.01(e).
 - (2) Substantial Improvements. Substantial improvement of any principal structure or manufactured home shall 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 equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 837.01(e).
- (b) Nonresidential Buildings.
 - (1) New Construction. New construction of principal non-residential structures shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sections

836.03, 836.04 and 836.05 have been met. If all of the requirements of Sections 836.03, 836.04 and 836.05 have been met, all new construction shall 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 shall be provided in accordance with standards of 837.01(e)(1). New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sections 836.03, 836.04 and 836.05 have been met. New construction that has met all of the requirements of Sections 836.03, 836.04 and 836.05 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 registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Planning and Development Director using the FEMA Floodproofing Certificate along with the design and operation/maintenance plan.

- (2) Substantial Improvements. Substantial improvement of any principal non-residential structure located in A1-30, AE, or AH zones, may be authorized by the Planning and Development Director to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to 1 foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Planning and Development Director using the FEMA Floodproofing Certificate along with the design and operation/maintenance plan.
- (c) Accessory Structures and Facilities. Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar non-habitable structures and facilities) which are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with Section 837.01(e) and be anchored to prevent flotation, collapse or lateral movement of the structure.
- (d) Standards for Recreational Vehicles. All recreational vehicles placed on sites must either:
 - (1) 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
 - (2) The recreational vehicle must meet all the requirements for residential buildings—substantial improvements, subsection (a)(2), including the anchoring and elevation requirements.
- (e) Standards for Manufactured Homes.

- (1) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of Sections 836.03, 836.04 and 836.05 have been met. If all of the requirements of Sections 836.03, 836.04 and 836.05 have been met, all new construction and substantial improvement shall 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 shall be provided in accordance with standards of Section 837.01(e)(1).
- (2) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:
 - a. 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
 - b. 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.
- (3) 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 Section 837.01(g).

837.03 Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain.

- (a) Residential Buildings. For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least 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 shall be provided in accordance with standards of Section 837.01(e)(1).
- (b) Nonresidential Buildings. For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least 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 shall be provided in accordance with standards of Section 837.01(e)(1). Non-residential buildings may be floodproofed in lieu of elevation.

837.04 Building Standards for Residential Single-Lot Developments on Streams without Established Base Flood Elevations and/or Floodway (A-Zones).

- (a) 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 Planning and Development Director shall 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, in order to administer the provisions and standards of this Article.

- (b) If data are not available from any of these sources, the following provisions shall apply:
 - (1) No encroachments, including structures or fill material, shall 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 of existing structures shall 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. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with Section 837.01(e).

837.05 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:

- (a) New and all substantial improvements of residential and nonresidential structures shall 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, shall be elevated at least 3 feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of 837.01(e).
- (b) New and substantial improvements of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus 1 foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice and shall provide such certification to the Director of the Planning and Development Department using the FEMA Floodproofing Certificate along with the design and operation/maintenance plan; and,
- (c) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

837.06 Standards for Subdivisions.

- (a) All subdivision proposals shall identify the special flood hazard area and Areas of Future-conditions Flood hazard therein and provide base flood elevation data and future-conditions flood elevation data;
- (b) All residential lots in a subdivision proposal shall 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;
- (c) All subdivision plans will provide the elevations of proposed structures in accordance with Section 835.02;
- (d) All subdivision proposals shall be consistent with the need to minimize flood damage;

- (e) All subdivision proposals shall have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of flood waters, and discharges from the systems into flood waters; and,

All subdivision proposals shall include adequate drainage and stormwater management facilities per the requirements of the city to reduce potential exposure to flood hazards.

Article 9. Project Design and Construction Standards

Article 9 sets out the minimum requirements and standards for construction of subdivisions and other land development projects, including general principals of design and layout, and requirements for such public facilities as streets and utilities.

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Article 9. Project Design and Construction Standards

DIVISION I. PROJECT DESIGN.

Section 901. General Design Standards.

901.01 Suitability of the Land.

Land subject to flooding, improper drainage or erosion, and any land deemed to be unsuitable for development due to steep slope, unsuitable soils or subsurface conditions, etc., shall not be subjected to development for any uses as may continue such conditions or increase danger to health, safety, life, and property, unless steps are taken to eliminate or abate these conditions.

Section 902. Unsuitable Land Must Be Included in Buildable Lots.

Land within a proposed subdivision or development which is unsuitable for development shall be incorporated into the buildable lot as excess land. Lots which do not comply with the requirements of Article 2 and other requirements of this Development Code are prohibited.

902.01 Exceptions.

The creation of an unbuildable lot in a proposed subdivision for the exclusive purpose of subdivision identification signage or subdivision entrance landscape features is authorized only under the following circumstances (modification applications from the circumstances of this exception shall not be accepted):

- (a) The lot shall be located at an entrance to the subdivision as an “island” in the right-of-way of a local or minor collector street;
- (b) A mandatory homeowner’s association shall be required for the subdivision for ownership and maintenance of the lot as common area;
- (c) The lot shall meet the requirements of Article 2 and other zoning requirements of this Development Code or as may be approved by a variance;
- (d) Right-of-way of a minimum width of 6 feet from back of curb shall be provided adjacent to the perimeter of the lot; and
- (e) Landscape plantings within the right-of-way shall not extend more than 3 feet above the street grade.

902.02 Offers of Land Dedication.

Whenever a developer proposes the dedication of land to public use, and the Planning and Development Director or the appropriate agency finds that such land use neither required nor is it suitable for public use, the Planning and Development Director shall require the rearrangement of lots to include such land in private ownership.

Section 903. Zoning and Other Regulations.

903.01 Zoning Requirements

- (a) Whenever there is a discrepancy between minimum standards or dimensions required herein and those contained in Article 2 of this Development Code, building codes, or other official regulations, the most restrictive shall apply.
- (b) In those instances where the required right-of-way width or roadway improvements have been established as a condition of zoning approval, the requirements of the zoning condition shall control whether more or less restrictive than the requirements of this Article.
- (c) Building setback lines shall at least conform to the minimum yard requirements of Article 2. Building setback lines along all public streets shall be no less than the front yard setback required on the property by the applicable zoning district in Article 2.

903.02 Required Public Improvements.

- (a) General Requirements.

Every developer of lands within the jurisdiction of this Article shall provide the public improvements included in this Article, as shall be appropriate to serve the project, in accordance with Article and other pertinent codes, ordinances, and regulations of the City of Duluth. Said improvements and associated land shall be provided at no cost to the City of Duluth, and shall be dedicated or otherwise transferred, as required, to the public in perpetuity and without covenant or reservation, except as otherwise provided herein.

- (b) Lots.

- (1) Lots shall at least conform to requirements of Article 2 of this Development Code.
- (2) Double frontage and reverse frontage lots shall be required for residential subdivisions along major thoroughfares where internal access can be provided. A no-access easement of at least 10 feet in width, across which there shall be no right of access, shall be provided along the line of lots abutting the major thoroughfare. Said no-access easement shall be planted with a single line of shrubs or trees, or contain a solid or decorative fence, or contain such other landscaping treatment or grade changes which will produce a partial screening effect, as may be proposed by the developer.
- (3) In no-access easements along minor collectors or local streets, planting or other screening treatments shall be at the sole option of the developer.

903.03 Survey Monuments.

- (a) All corners shall be marked with an iron rebar or pin, at least ½ inch in diameter and 18 inches long and driven into the ground so as to extend no less than one inch above the finished grade.
- (b) On subdivisions containing floodplains, flood elevation references shall be set in accordance with the requirements of the Flood Damage Prevention section of the Environmental Protection Article of this Development Code.

903.04 Standard Drawings.

- (a) The Planning and Development Department shall maintain a file for consultation and distribution a set of Standard Drawings illustrating details of construction and design of streets, storm water drainage facilities, site improvements and other elements related to the development of land in accordance with these Regulations and under the jurisdiction of the Department.

- (b) The Standard Drawings shall illustrate minimum acceptable standards for land development activities authorized under these Regulations, but shall not supersede more restrictive prudent design requirements or good engineering practice as applied to specific situations on a case- by-case basis.
- (c) The Standard Drawings shall be treated as though a part of this Development Code for application to the minimum standards for design and construction of improvements required herein and subject to modification and appeal provisions of this Code.

Section 904. Access Requirements.

904.01 Access.

- (a) When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed so as to allow for the opening of future streets and to provide access to those areas not presently served by streets.
- (b) No subdivision shall be designed so as to completely eliminate street access to adjoining parcels of land. Every development shall be designed to facilitate access to adjoining properties which are developed or anticipated to be developed in a manner substantially similar to the subject property. Locations of interparcel access shall be as required by and subject to the approval of the Planning and Development Department.
- (c) Any lot required to provide minimum frontage by the zoning district in which the lot is located shall provide vehicular access directly from a public street along the frontage or along any other property line which abuts a public street, except as provided in Section 904.01(e).
- (d) Private streets as may be approved under the provisions of this Code shall be constructed to the roadway construction standards of the City of Duluth, as contained herein.
- (e) Vehicular access easements may be provided from a public street indirectly via easement in any one or more of the following circumstances:
 - (1) The property is not required to provide a minimum frontage by the applicable zoning district, provided that the easement shall be in a location and the access driveway shall have a width and alignment acceptable to the Fire Services Division and the Department.
 - (2) The property is a buildable lot of record, as defined herein, but does not meet the minimum frontage requirement of the applicable zoning district. The property must be served by an exclusive access easement which shall be limited to the provision of access to only one principal use or structure.
 - (3) The access easement serves a single-family residence on a lot which is otherwise a buildable lot of record, and which is sharing a common driveway with no more than one other single-family residence.
 - (4) The access easement was lawfully established as such under the code, ordinances, or regulations of the City of Duluth prior to the adoption of these Development Regulations.
 - (5) The access easement coincides with a private roadway approved under the codes, ordinances, or regulations of the City of Duluth. All new private roadways must be

constructed to the roadway standards of this Article, and their ownership and maintenance responsibility by private parties must be clearly established on the Final Plat of the development.

- (6) The access easement serves a buildable lot of record which meets the minimum frontage requirements of this Development Code, but at which point the access is not achieved.

Section 905. Streets.

905.01 Complete Streets Standards.

The purpose of this Section is to assure that new roadway construction and existing roadway improvement projects on City of Duluth roadways include consideration for adequate infrastructure, where appropriate and feasible, for bicyclists, pedestrians, users of public transit of all ages and abilities, vehicular and the physically disabled.

- (a) Requirements. An array of facilities and amenities that are recognized as contributing to Complete Streets, including, but not limited to: street and sidewalk lighting, pedestrian and bicycle safety improvements, access improvements for freight; access improvements in accordance with the Americans with Disabilities Act; and street amenities shall be provided where practical.
 - (1) New roadway projects shall accommodate users of all abilities of the transportation system, including pedestrians, bicyclists, users of mass transit, people with disabilities, the elderly, motorists, emergency responders, and adjacent land users.
 - (2) New roadway projects shall make use of the latest and best design standards, policies, and guidelines.
 - (3) Complete Streets solutions shall be developed to fit within the context(s) of the community and those solutions shall be flexible so that the needs of the corridor can be met.
 - (4) New roadway projects shall identify anticipated phases and key milestones of project development.
- (b) Exemptions
 - (1) Ordinary maintenance activities designed to keep assets in serviceable condition;
 - (2) Areas that involve a roadway that bicyclists and pedestrians are prohibited by law from using efforts should be made to accommodate bicyclists and pedestrians elsewhere;
 - (3) There are extreme topographic or natural resource constraints;
 - (4) A reasonable and equivalent alternative already exists for certain users.

905.02 Dedication of Street Right-of-Way.

Right-of-Way for all Public Project streets, existing and proposed, shall be dedicated in accordance with the street classifications as shown on the Planning and Development Department webpage or as otherwise required by the City Council.

905.03 Street Improvements.

Streets, whether existing or new, shall be constructed or improved under those circumstances and to the standards as established in this Article. Roadway improvements shall be in accordance with the street classifications as shown in the Comprehensive Plan, the Planning and Development Department web page, or Development Code, as applicable, or as otherwise required by the City Council.

905.04 Minimum Right of Way and Pavement Widths.

- (a) Minimum widths for new construction (new streets or widening sections) shall be as shown on the following Table 9-A (unless a modification is granted by the Planning and Development Director).

Table 9-A: Minimum Right-of-Way and Roadway Widths for New Streets and Widening

Street Category	Minimum Right-of-Way ⁽¹⁾	Minimum Roadway ⁽²⁾
Principal Arterial	120-150 feet	6 thru lanes with median
Major Arterial	100-120 feet	4-6 lanes with median
Minor Arterial	80-100 feet	52-66 feet – 4 thru lanes with median
Major Collector	80 feet	52 feet
Minor Collector	60-80 feet	28 feet
Local Street		
Non-residential	60 feet ⁽³⁾	32 feet
Non-residential Cul-de-sac	60 foot radius	50 foot radius
Local Street		
Residential Urban	50 feet	27 feet
Residential Urban Cul-de-sac	50 foot radius	40 foot radius
Local Street		
Residential Rural ⁽⁴⁾	60 feet ⁽⁵⁾	24 feet
Residential Rural Cul-de-sac	60 feet radius ⁽⁵⁾	40 foot radius

(1) The greater the right-of-way width shall apply under circumstances as described in Section 905.05(c).

(2) Roadway width dimensions are back-of-curb to back-of-curb except when noted.

(3) Utility easement shall be provided in allocation and size as required by the Gwinnett County Department of Public Utilities.

(4) Subdivisions zoned RA-200.

(5) May be reduced to 50 if curb, gutter, and pipe drainage system is provided.

(6) Measured to edge of pavement. Curb and Gutter is not required in subdivision zoned RA-200. Roadway width may be reduced to 23 feet if curb and gutter is provided (27 feet total width).

- (b) Exceptions.

- (1) Conservation Subdivisions. New local streets in Conservation Subdivisions shall be as follows:
 - a. Entrance Streets: At least 46 feet.
 - b. Other Interior Streets: At least 44 feet.
 - c. Right-of-way Radii: At least 45 feet for cul-de-sac or “eyebrow” turnarounds.
 - d. Alleys: No minimum if not to be dedicated to the City; at least 20 feet if to be dedicated to the City.
 - e. Pavement Width of New Interior Local Streets:
 1. Entrance Streets: At least 24 feet (measured to back of curb)
 2. Other Interior Streets: At least 22 feet (measured to back of curb).
 3. Curb and Gutter: At least 1 ½ feet.
 4. Right-of-way Radii: At least 40 feet for cul-de-sac or “eyebrow” turnarounds (measured to back of curb).
 5. Alleys: At least 12 feet (concrete or asphalt), with or without curb, if not to be dedicated to the City; at least 12 feet if surfaced with asphalt (which includes 1 foot of concrete curbs) and at least 12 feet if surfaced with concrete (with or without curb).
- (2) Planned Unit Developments, New Local Residential Streets. New local residential streets in the PUD District shall be as follows:
 - a. Right-of-Way Width:
 1. Interior Streets: At least 44 feet.
 2. Right-of-Way Radii: At least 50 feet for cul-de-sac or “eyebrow” turnarounds.
 3. Alleys: At least 15-foot easement if not to be dedicated to the City; at least 15 feet of right-of-way if to be dedicated to the City.
 - b. Pavement Width:
 1. Interior Streets: At least 24 feet (measured to back of curb).
 2. Right-of-Way Radii: At least 40 feet for cul-de-sac or “eyebrow” turnarounds (measured to back of curb).
 3. Alleys: At least 12 feet (concrete or asphalt), with or without curb, if not to be dedicated to the City; at least 12 feet if surfaced with asphalt (which includes 1 foot concrete curbs) and at least 12 feet if surfaced with concrete (with or without curb).
 - c. Additional Pavement and Right-of-Way Width:
 1. Additional Travel Lanes: At least 10 feet of pavement width.
 2. On-Street Parallel Parking: At least 9 feet of pavement width.

3. Right-of-Way: Additional right-of-way shall be provided to accommodate additional travel lanes, on-street parallel parking, sidewalks and underground utilities.
- (3) Planned Unit Developments, New Local Non-Residential Streets. New local non-residential streets in the PUD District shall be as follows:
- a. Right-of-Way Width:
 1. Interior Streets: At least 48 feet
 2. Right-of-Way Radii: At least 55 feet for cul-de-sac or “eyebrow” turnarounds.
 3. Alleys: At least 15-foot easement if not to be dedicated to the City; at least 15 feet of right-of-way if to be dedicated to the City.
 - b. Pavement Width:
 1. Interior Streets: At least 26 feet (measured to back of curb).
 2. Right-of-Way Radii: At least 45 feet for cul-de-sac or “eyebrow” turnarounds (measured to back of curb).
 3. Alleys: At least 10 feet (concrete or asphalt), with or without curb, if not to be dedicated to the City; at least 12 feet if surfaced with asphalt (which includes 1 foot concrete curbs) and at least 10 feet if surfaced with concrete (with or without curb).
 - c. Additional Pavement and Right-of-Way Width:
 1. Additional Travel Lanes: At least 11 feet of pavement width.
 2. On-Street Parallel Parking: At least 9 feet of pavement width.
 3. On-Street Angled Parking: At least 18 feet of pavement width.
 4. Right-of-Way: Additional right-of-way shall be provided to accommodate additional travel lanes, on-street parallel parking, on-street angled parking, sidewalks and underground utilities.

905.05 Street Rights-of-Way.

- (a) The minimum width of rights-of-way shall be dedicated based upon the street classification as shown in the Comprehensive Plan or on the Planning and Development Department web page and as contained in this Article.
- (b) Additional street right-of-way width may be required to be dedicated at intersections or other locations fronting the property where turning lanes, storage lanes, medians or realignments are required for traffic safety and minimum right-of-way standards would be inadequate to accommodate the improvements.
- (c) If a new street or thoroughfare is proposed by the Comprehensive Plan, Gwinnett County or the State of Georgia to adjoin or traverse the property, permits shall not be issued until the Planning and Development Department has submitted the project to the City Council for review in order to seek a determination if the City of Duluth should acquire right-of-way or if a study of alternate routes should be undertaken. The review period by the City

of Duluth shall not exceed 90 days from the date of permit application. If, after the 90 day review, the City Council is unable to reach a decision, there shall not be any further delay of a requested permit for this situation.

905.06 Project Access Improvements.

(a) Single Family Detached, Single Family Attached, and Duplex Residential Subdivisions.

- (1) When property fronting on an existing or proposed City road is to be developed or re-developed as a single family detached or duplex subdivision and the City street will provides access to the property, Project Access Improvements to the City street (deceleration lanes, turn lanes, etc.) shall be provided by the developer as required herein.
- (2) A deceleration lane shall be required to be provided at each subdivision street entrance that is provided street access to a Minor Collector Street or Major Thoroughfare. In the event a street has an existing or proposed median, and the developer desires to construct a median break to serve the subdivision, a left turn lane leading to the median break shall be required to be provided by the developer and shall meet the standards contained herein.
- (3) Deceleration lanes shall have a length of 250 feet, with an additional 50 foot taper length, a pavement width of 12 feet (exclusive of curb and gutter) and shall be provided with curb and gutter. Additional right-of-way to accommodate the deceleration lane and an 11 foot shoulder shall be dedicated by the developer to the City of Duluth and/or Gwinnett County at no cost. Associated drainage improvements as deemed necessary by the construction of the deceleration land shall also be required.
- (4) Other Project Access Improvements may be required by the Department upon the recommendation of the Gwinnett County Department of Transportation in order to ensure adequate site access, pedestrian access, convenience and safety to the motor-ing public.
- (5) The developer shall be responsible for the relocation of public or private utilities and drainage structures as may be occasioned by the required roadway improvements.

(b) Multi-Family and Nonresidential Developments.

- (1) When property fronting on an existing or proposed City, County or State roadway is to be developed or redeveloped for, multi-family or nonresidential uses and the City, County or State road will provide access to the property, access improvements to the City road (deceleration lanes, turn lanes, etc.) shall be provided by the developer.
- (2) A deceleration lane shall be required to be provided at each subdivision street entrance that is provided street access to a Minor Collector Street or Major Thoroughfare. In the event a street has an existing or proposed median, and the developer desires to construct a median break to serve the subdivision, a left turn lane leading to the median break shall be required to be provided by the developer and shall meet the standards contained herein.
- (3) Deceleration lanes shall have a length of 200 feet, with an additional 50 foot taper length, a pavement width of 12 feet (exclusive of curb and gutter) and shall be provid-

ed with curb and gutter. Additional right-of-way to accommodate the deceleration lane and an 11 foot shoulder shall be dedicated by the developer to the City of Duluth and/or Gwinnett County at no cost. Associated drainage improvements as deemed necessary by the construction of the deceleration land shall also be required.

- (4) Other Project Access Improvements may be required by the Department upon the recommendation of the Gwinnett County Department of Transportation in order to ensure adequate site access, pedestrian access, convenience and safety to the motor-ing public.
- (5) The Developer shall be responsible for the relocation of public or private utilities and drainage structures as may be occasioned by the required roadway improvements.

905.07 New Streets.

- (a) New streets, whether to be public or private, shall be designed and constructed at least to standards contained in this Article in accordance with the category of said streets.
- (b) In residential subdivisions, a dead end ("stub") street required under Section 906.04 to provide access to an abutting property may be exempted from 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 shall be fully designed as part of the Development Plan. However, the right-of-way shall be only cleared, rough graded in accordance with the approved plans, and all disturbed areas grassed.
 - (4) Connections for future extension of all public utilities shall be constructed as part of the subdivision. Curb returns shall be constructed as part of the subdivision. Curb returns shall be provided to the future "stub" street roadway location, and curb and gutter shall be installed across the roadway stub at the right-of-way line (extended).
- (c) The right-of-way for the "stub" street shall be dedicated as part of the Final Plat. Slope easements or construction easements, if required, shall be shown on the Final Plat.

905.08 Substandard Streets.

- (a) In the event that a development has access to a substandard street (i.e., a dirt or gravel road or any street that does not meet the minimum current construction and improvement standards), the following Project Access Improvements shall be required: If the abutting substandard street provides the primary means of access to the development and is dirt or gravel or any street that does not meet the minimum current construction and improvement standards, the street shall be upgraded to a standard paved roadway from the project entrance, to the nearest standard paved road along the route of primary access.
- (b) Off-site Improvements required under (a), above, shall at a minimum, result in a full-section roadway meeting the requirements of a Local Residential Rural roadway (24 feet pavement edge to pavement edge, with drainage swale ditches as needed). Responsibilities shall be as follows:

- (1) The Developer shall design the road and provide the labor, equipment, and materials required for the necessary roadway improvements and necessary drainage improvements.
- (2) If the City or County desires the roadway to be improved to a greater standard than that for a Local Residential Rural roadway, the governmental entity requiring such shall provide or pay the cost of the additional materials and labor.
- (3) All right-of-way required for these off-site improvements shall be acquired by the developer at no expense to the City or County. If the developer is unable to acquire the right-of-way, the Department of Planning & Development will initiate acquisition proceedings, at the expense of the developer, after authorization by the City Council.

905.09 Improvements along State Highways.

- (a) For any development which abuts a state highway or other right-of-way controlled by the State of Georgia, improvements to the roadway and the location and design of any street or driveway providing access from the state highway shall comply with the standards and requirements of the Georgia Department of Transportation only when more restrictive than the requirements of this Article.
- (b) A permit for the proposed access or improvements shall be required to have been approved by the Georgia D.O.T. and incorporated into the construction drawings for the project prior to issuance of a development permit by the Department.

Section 906. General Layout Requirements.

906.01 Conformance.

The arrangement, character, extent, width, grade, and location of all streets shall conform at a minimum to the Comprehensive Plan and this Article.

906.02 Local Streets and Minor Collectors.

- (a) Local streets shall be so laid out that their use by through traffic will be discouraged.
- (b) Minor collectors shall be provided to channel through traffic movements within a development, where appropriate to the design and a major thoroughfare is not proposed by the Comprehensive Plan.
- (c) Minor collectors also may be provided as central routes within large residential subdivisions, where appropriate to the design, based on project traffic demands exceeding 2000 trips per day (ADT).

906.03 Cul-de-sac Streets.

- (a) Dead end streets designed to have one end permanently closed shall provide a cul-de-sac turnaround and may be no more than 2000 feet in length. Additional length necessitated by topography or property configuration may be approved by the Planning and Development Director.
- (b) The length of a cul-de-sac street shall be measured from the center of the cul-de-sac to the center of the intersection with another street, whether a through street or another cul-de-sac or dead-end street.

- (c) Eyebrow cul-de-sac (half cul-de-sacs) will be allowed only at "right-angled" intersections having an interior angle between 80 and 100 degrees.
- (d) Cul-de-sacs shall conform to the layout and dimensional requirements as shown in these Standard Drawings.

906.04 Other Dead End Streets

- (a) A dead end street shall be provided to the boundary of a subdivision where 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.
 - (1) Such dead end streets shall be designed so as to allow their reasonable extension, and shall be located so as to be reasonably incorporated into a street design for the neighboring property.
 - (2) The stub street requirement may be waived by the Planning and Development Director, provided such waiver has received the approval of the Gwinnett County Departments of Public Safety and Public Utilities.
- (b) Dead end streets on abutting property shall be extended into a proposed subdivision and incorporated into the street design of the development. This requirement may be modified by the Director in cases of serious topographical hardship or dissimilar zoning which would create unacceptable land use conflicts between the two developments. This modification may be 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 cul-de-sac or other permanent turnaround on the dead end street, or the removal of the dead end street back to its nearest intersection.
- (c) Where a dead end street (other than a cul-de-sac) serves more than three lots, the developer shall be required to provide a temporary vehicular turnaround within the right-of-way. This requirement may be waived if extension of the dead end street is approved and under construction prior to its inclusion in a Final Plat.
- (d) Where a street dead ends at the property boundary and the street exceeds 1000 feet in length, a permanent cul-de-sac shall be required. In this situation, right-of-way to the property boundary shall be required, but the pavement shall not be extended to the property boundary beyond the edge of the paved cul-de-sac turnaround. In no case shall a dead end street exceed 2,000 feet in length unless approved by the Planning and Development Department due to unusual topographic conditions or property configuration.

906.05 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 constructed and dedicated within the development approximately parallel to and on each side of such right-of-way.

906.06 Half-Streets.

Half-streets (new boundary streets having one-half of the minimum required right-of-way or pavement width) shall not be allowed nor access to same be permitted should it exist.

906.07 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 shall not be 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 shall be designed so as to deny access to abutting properties.

906.08 Alleys.

An alley shall be constructed as though it were a local street pursuant to the standards contained in this Article.

906.09 Street Jogs.

- (a) Street jogs shall either directly align or have off-sets of a minimum of 125 feet for residential subdivision streets and a minimum of 200 feet for non-residential subdivision streets, as measured between centerlines of said streets, unless approved by the Planning and Development Department due to unusual topographic conditions or property configuration.
- (b) All major thoroughfares shall provide off-sets as required by the Planning and Development Department, where alignment is not desirable or feasible, but in no case be space less than 600 feet apart as measured between centerlines of said streets.

Section 907. Traffic Control Devices.**907.01 Traffic Control Signs.**

Street signs, traffic control signs, and devices such as striping and signalization, shall be provided by the developer. The developer must apply with Gwinnett County Traffic Engineering for the installation and fabrication of traffic control devices.

907.02 Street Name Signs.

Street name signs shall have a green background with white legends mounted on channelized posts. Alternate post material shall be subject to the review and approval of the Gwinnett County Traffic Engineer. The posts and signs will be furnished and installed by the developer at all street intersections. The developer (or homeowner's association in the event an alternate signpost is chosen at a later date) shall pay the County's and/or City's costs.

907.03 Traffic Signals and Signs.

All traffic signals and signs shall conform to the Manual on Uniform Traffic Control Devices (no decorative traffic control devices will be allowed).

907.04 Striping Requirements.

All newly constructed streets having four or more lanes (including auxiliary lanes) and existing streets being widened with one or more additional lanes shall be striped or the payment of said striping costs shall be required from the Developer by the Planning and Development Department prior to the approval of the Development Conformance Certificate for the project. Striping shall be accomplished with paint meeting Georgia DOT standards conforming to the Manual on Uniform Traffic Control Devices. The developer shall apply the final striping after application of the final topping after receiving approval of the Department.

907.05 Payment of Fees.

The developer shall pay Gwinnett County Traffic Engineering for the installation and fabrication of traffic control devices and street name signs prior to approval of the final plat.

907.06 Street Lights.

Street lights shall be provided by the developer in new subdivisions which propose the construction of a new street to be dedicated to the City or which propose lot access to existing City streets. All fees, materials, labor, poles, fixtures and any other associated items shall be furnished, paid for and installed by the developer. Street lighting shall be installed and operating prior to approval of the final plat.

- (a) This Section shall apply for all developments or phases of development which have not received a development permit as of the date of adoption of this ordinance.
- (b) In all cases, guidelines related to materials, distances between poles, height, and any other relevant specifications shall be adhered to as set forth in The American National Standard Practice for Roadway Lighting and the power provider for the project.
- (c) A street lighting plan shall accompany the preliminary plat and shall be reviewed and approved by the City for compliance with the requirements of the national standard. Prior to approval of the Final Plat, all fees associated with materials, labor, and installation shall be paid to the appropriate power provider for the project and proof of payment shall be provided to the City.
- (d) Street lights shall be provided by the owner/developer in any new development where the streets are proposed to be dedicated to the City or which propose lot access to existing City streets.
 - (1) Location and spacing shall be coordinated with the electric company with jurisdiction over the property and shall be installed at the time the streets are constructed.
 - (2) The City shall take over payment of the monthly energy charges from the owner/developer once the development is 95% complete based on issued Certificates of Occupancy and after a written request is received from the developer/builder to take over monthly costs.
 - (3) In a residential development, street lights shall be installed prior to approval of the Final Plat. Electrification of the lights shall occur once the development or phase has achieved 50% completion via issuance of a Certificate of Occupancy (C.O.)
 - (4) In a non-residential development, street lights are to be installed prior to issuance of a C.O. for the building(s).
- (e) All fixtures and poles shall meet the requirements of the City and all maintenance shall be the responsibility of the developer and/or homeowner's association. Fixtures shall be mounted a minimum of 16 feet above the ground and each fixture shall have appropriate arm length to illuminate the street. The City, in addition to other requirements, may require a light to be located at street intersections within the development.

Section 908. Sidewalks.**908.01 Where Required.**

- (a) Sidewalks shall be required along all minor collector streets and major thoroughfares within a 1-mile radius of all existing and proposed public school sites, except within (internal to) non-residential subdivisions. Any development located along such route or within the 1-mile radius shall provide sidewalks along its frontage in accordance with this Section.
- (b) Sidewalks shall be required on both sides of any new street, any road classified as a Minor Collector or Major Thoroughfare, where the Duluth Sidewalk Master Plan identifies that sidewalks are planned for construction or on streets that the City Council has allotted funds for the installation of sidewalks.
 - (1) If sidewalks are established along portions of the roadway or on the same side of the street as the new development, the owner/developer must install sidewalks in accordance with Section 914.01 on any new development(s) site in order to connect with existing sidewalks.
 - (2) The owner/developer may deposit funds into an account held by the City of Duluth designated for sidewalk construction at the discretion of the Director, if sidewalks are under construction or planned for construction to begin within one year. Said funds shall be in the amount of 110% of the cost for construction of the sidewalk on the property proposed for development as calculated by the Department.
- (c) Sidewalks may also be required as a condition of zoning, special use approval or by this Development Code. Said sidewalks shall meet the location and construction requirements contained herein, unless otherwise specified in the conditions of approval.
- (d) Sidewalks provided voluntarily by a builder or developer shall meet the location and construction standards contained herein. Decorative sidewalks may be permitted at the discretion of the Planning and Development Director, however location and size requirements shall be followed as contained herein.

908.02 Location Requirements.

- (a) Sidewalks shall be located 24 inches from the back of curb except in Conservation Subdivisions, Planned Unit Developments, or subdivisions in which street trees are provided (bridges excepted). Where no curbing exists or future road improvements are anticipated, the sidewalks shall be placed in a location acceptable to the Department. All new sidewalks shall match and provide smooth transition to any existing sidewalks.
- (b) Sidewalks in Conservation Subdivisions, Planned Unit Developments or in subdivisions in which street trees are provided shall be located at least 6 feet from the back of curb (bridges excepted). The area between the curb and the sidewalk shall consist of grassing or landscaping. Where no curb exists, or if road improvements are proposed for installation by the City, County or State, sidewalks, including appropriate drainage facilities, shall be constructed in a location acceptable to the Department of Planning and Development and/or Georgia Department of Transportation.
 - (1) Sidewalks shall be required adjacent to the perimeter of eyebrow turnarounds.
 - (2) Sidewalks shall be required adjacent to perimeter of cul-de-sac turnarounds.

- (3) Where possible, sidewalks shall be woven through existing vegetation, trees, etc. to create a "meandering sidewalk."

Section 909. Performance Guidelines.

909.01 General.

(a) Purpose.

The sub-sections enumerated in this Section 909 are guidelines, and are intended to be benchmark indicators of what standards could be acceptable. They are further intended to allow alternate designs which could produce results similar to these performance standards and similar protection to the public. The objective of these performance standards is not to suggest a single methodological standard of acceptance exclusive of all others. Rather they establish what would otherwise be allowed in the absence of an acceptable alternative.

(b) Constraints.

The alternative design solutions are constrained by the requirements of this Article and the grading, detention, and drainage Requirements of Article 10, as well as the purpose and intent of this Development Code.

(c) Documentation Required.

In the event that an alternative is suggested by the applicant, studies and reports conducted by professionals currently certified in the State of Georgia will be required to be submitted to and approved by the Department. These studies and reports must clearly relate to the desired results and purposes expressed or implied in the applicable performance standard. Once an alternative has been approved by the Department, it shall become a required standard applicable to the specifically approved Permit.

909.02 Lots.

- (a) Lots should be designed generally such that they are no more than four times as deep as they are wide at the building setback line, unless exempted by the Planning and Development Director.

- (1) The Department requires notation that a House Location Plan (HLP) is required to be approved prior to issuance of a building permit on all residential lots.

- (2) The Department may require notation that a Residential Drainage Plan (RDP) is required to be approved prior to issuance of a building permit on certain lots where additional (site specific) engineering will be necessary to properly grade the lot or locate the building or other improvements. Such lots include, but are not limited to:

- a. A lot containing floodplain where fill or other encroachment into the floodplain is planned or reasonably expected;
- b. A lot containing severe topographic features interdicting the building site;
- c. A lot containing a drainage easement with a pipe discharge or other facilities, or flow characteristics which may adversely affect the location of a building or other site improvements.

- (3) The Planning and Development Department may require notation that a Residential Drainage Study (RDS) is required to be approved prior to issuance of a building permit

on certain lots where particular attention to site grading will be necessary, but formal engineering is not needed. Such an RDS is conducted in the field where the effect of the site grading must be accomplished with adequate care so as not to create a drainage problem on neighboring properties.

- (b) Side lot lines generally should be at right angles (90 degrees) to straight street lines or radial to curved street lines as much as practical. Side lot lines should be radial to the radius points of all cul-de-sacs. Variations of more than 10 degrees shall require approval of the Department, but shall be approved when appropriate to the reasonable loading pattern of the subdivision, efficient use of the land relative to topographic conditions, or provisions of improved building sites over those which would result without such variation.
- (c) Corner lots shall be sufficiently larger so that they have the same width between minimum side setback lines as an interior lot, but in no case shall more than 75 feet between side setback lines on a corner lot be required.

909.03 Blocks.

- (a) The lengths, widths, and shapes of blocks shall 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 requirements as to lot size and dimensions,
 - (3) Needs for convenient access, circulation, control, and safety of street traffic, and
 - (4) Limitations and opportunities of topography.
- (b) In blocks over 1,000 feet long, the Planning and Development Director may, when existing or proposed pedestrian circulation patterns or public gathering places so justify, require pedestrian ways or pedestrian access easements, as appropriate, through the block.

909.04 Access.

A maximum number of 200 residential dwelling units shall be allowed to be constructed with only one street outlet to an existing public street. If a second access to an existing public road is not available or, if in the opinion of the Planning and Development Director, a second access could induce non-residential traffic through the development, a single entrance may be allowed if designed with a traffic signal and/or sufficient right-of-way and street improvements to provide a protected left-turn lane, subject to engineering.

909.05 Roadway Design.

- (a) Street Grades and Design Speeds.
 - (1) Minimum grade for all local and minor collector streets shall be 1.5%. Minimum grades for all major collector and arterial streets shall conform to Georgia D.O.T. practice.
 - (2) Minimum grade of less than 1.5% on a local street may be approved by the Department, based on adequate engineering designs, where such grades cannot reasonably be achieved due to topographical limitations imposed by the land. In such cases, a Record Drawing and such computations as necessary shall 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 shall be reconstructed or otherwise improved to eliminate such conditions.

- (3) Minimum vehicle design speeds and maximum grades allowable in the City of Duluth by street classification shall be as shown in Table 9-B.

Table 9-B: Minimum Design Speeds and Maximum Grades

Street Category	Maximum Grade	Design Speed
Principal Arterial	6%	60 MPH
Major Arterial	8%	50 MPH
Minor Arterial	10%	50 MPH
Major Collector	10%	40 MPH
Minor Collector	10%	30 MPH
Local	15%	20 MPH

Note: Grades between 12% and 14% shall not exceed a length of 150 feet and shall require an "as graded" survey prior to the installation of the curb and utilities. The distance shall be measured as the tangent length between points of curvature.

- (4) Maximum grade on any cul-de-sac turnaround shall be 6%.

(b) Vertical Street Alignment.

- (1) All changes in street profile grades having algebraic difference greater than 1% shall be connected by a parabolic curve having a minimum length (L) equal to the product of the algebraic difference between the grades in% (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 the Table 9-C for both desirable and minimum acceptable ("hardship") conditions. In all cases, the "desirable" value shall be used, unless it cannot be achieved due to topographic conditions beyond the developer's control. In such hardship situations, the Department may approve a lesser value to the extent required by the hardship situation, but in no event less than the value shown in Table 9-C as "minimum".

Table 9-C: Constant (K) Values for Vertical Curves

Street Category	Crest Curves		Sag Curves	
	Minimum	Desirable	Minimum	Desirable
Principal Arterial	200	320	125	155
Major Arterial	100	170	80	110
Minor Arterial	55	80	55	70
Major Collector	55	80	55	70
Minor Collector	30	30	35	35
Local	10	10	20	20

(c) Horizontal Street Alignment.

- (1) All new streets shall adhere to the following standards governing horizontal curvature and superelevation shown in Table 9-D.

Table 9-D: Horizontal Curves

Street Category	Minimum Radius (FT)	Max Superelevation
Principal Arterial	1333	0.06
Major Arterial	833	0.06
Minor Arterial	560	0.04
Major Collector	560	0.04
Minor Collector	300	0.04*
Local	120	0.00

* No Superelevation will be allowed on Minor Collectors internal to residential subdivisions.

- (2) Superelevation for horizontal curves shall be calculated utilizing the following formula:

v = vehicle design speed, (MPH)

e = rate of superelevation (decimal of a 1-foot rise of 2 per foot of road-way)

f = side friction factor, as follows:

$$R = \frac{v^2}{15(e + f)}$$

Vehicle Design Speed (v)	30	40	50
Side Friction Factor (f)	.16	.15	.14

- (3) Widening section along existing streets shall be designed reflecting existing curvature and superelevation, if any, unless the existing street has been included in a specific design by the City, County or Georgia D.O.T. which calls for different standards, in which case the project will be coordinated with the overall design.

- (4) Superelevation Runoff.

Roadway edge curves shall 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 the Georgia Department of Transportation or other professional engineering standards.

- (5) Tangents and Compound Curves.

Between reverse horizontal curves there shall be not less than the minimum centerline tangents shown in Table 9-E unless otherwise specified by the Georgia Department of Transportation. Compound radii curves are prohibited. The "desirable" lengths shall be provided unless the developer can show that hardship due to topography or configuration of the property will not allow these lengths to be achieved, in which case the "minimum" lengths in Table 9-E may be permitted. For compound circular curves, the ratio of the flatter radius to the sharper radius shall not exceed 1.5 to 1.

Table 9-E: Tangents

Street Category	Minimum Tangent Length (feet)	Desirable Tangent Length (feet)
Major Arterial	125	150
Principal Arterial	150	180
Minor Arterial	100	120
Major Collector	100	120
Minor Collector	75	90
Local	50	60

Note: Minimum tangents are based on the distance traveled in 1.7 seconds at the design speed for each category of street. Desirable lengths of tangents are based on the distance traveled in 2.0 seconds at the design speed.

(d) Horizontal and Vertical Clearances.

(1) Horizontal Clearances.

- a. A shoulder of no less than 11 feet from the back of curb or edge of pavement, appropriately graded and having gentle slopes of not more than $\frac{1}{2}$ inch per foot and rounded cross-sectional design shall be maintained along all streets. Beyond the shoulder but within the right-of-way, slopes shall not exceed 1 foot of rise for each 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 shall be provided for a minimum distance of 6 feet from back of curb or edge of roadway pavement. Nothing may be located above ground level in this clear zone except traffic control and street signs, public utility structures, mail boxes, City approved street trees and City approved landscaping.
- 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 of Transportation, 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 which 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 shall be at least 14.5 feet over the entire roadway width.

909.06 Street Intersections.

(a) Angle of Intersection.

Intersections shall generally be at right angles and shall not be at an angle of less than 85 degrees unless approved by the Department, nor less than 80 degrees unless the intersection is signalized in which case the angle of the intersection may be reduced subject to the review and approval of Gwinnett County Traffic Engineering.

(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) Intersection Approaches: Horizontal Alignment.

(1) New local streets which approach an intersection with a street of higher classification on a horizontal curve having a centerline radius of less than 240 feet shall provide a tangent section of roadway at least 30 feet in length. Minor collectors intersecting a major thoroughfare on a horizontal curve having a centerline radius of less than 550 feet shall also provide the 30-foot tangent section. The tangent length shall be measured along the centerline of the intersecting from the right-of-way line of the intersected street, to the point of tangency with the centerline of the curve section.

(2) New major thoroughfares shall provide tangent sections at intersections with streets of equal or higher classification as needed to provide adequate stopping distances at their design speeds.

(d) Intersection Approaches: Vertical Alignment.

(1) For intersections with local or minor collector streets, a leveling of the street at a grade not exceeding 2% shall be provided but no level approach distance is required for streets approaching at less than 7%, and a minimum 25-foot level approach distance shall be provided for streets approaching at a grade in excess of 7% or more. (See Standard Drawings.)

(2) As a street approaches an intersection with a major thoroughfare, there shall be a suitable leveling of the street at a grade not exceeding 2% and for a distance not less than those shown in Table 9-F.

Table 9-F: Approach Distances at Major Intersections

Approaching Street Category	Minimum Approach Distance* (feet)
Principal Arterial	100
Major Arterial	100
Minor Arterial	100
Major collector	75
Minor Collector	75
Local	50

*Distance of the approach is measured from edge of pavement of the intersected street to the point of curvature in the approaching street.

(e) Intersection Radii.

Intersection radii for roadways, measured at back of curb, and right-of-way lines shall be as shown in Table 9-G. For intersecting streets of difference classification, the larger radii shall be provided. In all cases, adequate right-of-way shall be provided to maintain a minimum of 11 feet from back-of-curb. Larger radii may be required for streets intersecting at angles less than 90 degrees.

Table 9-G: Intersection Radii

Street Category	Roadway Radii (feet)	Right-of-Way Radii (feet)
Arterial	40	20
Major Collector	40	20
Minor Collector – Residential	25	9
Minor Collector – Non-Residential	40	20
Local – Residential	20	9
Local – Commercial or Office	25	11
Local – Industrial	40	25

Note: Intersecting right-of-way lines may be joined by an arc having 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 shall conform to the design requirements of the standard drawings. In no case shall 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 of Duluth. No island shall be approved which contains less than 100 square feet.

(g) Intersection Corner Sight Distance.

- (1) Intersections shall be designed with adequate corner sight distance for each street which approaches a street in an equal or higher street classification (except an intersection of two local streets). Where necessary, backslopes shall 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 shall be equal to or exceed 10 times the regulated speed of the intersecting street, as measured from the center of the approaching street in both directions along the right-of-way line of the intersected street. As an alternative, the minimum corner sight distance requirement may be calculated using AASHTO Policy on Geometric Design of Highways and Streets, Chapter 9 (at-grade intersections), latest edition. The sight distance shall provide clear visibility of an object 4 feet above the intersected street viewed from the centerline of the approaching street, at a height of 3.5 feet above the ground.

(h) Obstructing Visibility at Intersections.

On any corner lot, within an area formed by the lot lines on the street sides of such lot and a line (miter) joining points on such lot lines located at a distance of 20 feet from the point of their intersection, the following shall apply:

- (1) There shall be no fence, or wall or hedge higher than 3 feet in height above the established grade of the intersecting streets.
- (2) There shall be no obstruction to vision, other than a post, column or tree not exceeding 1 foot in greatest cross-sectional dimension, between a height of 3 feet and a height of 15 feet above the established grade of either of the intersecting streets.

(i) Turning Lanes at Intersections.

Left turning lanes shall be provided on all new internal project streets, classified as a minor collector or major thoroughfare, intersecting a major thoroughfare. Such turning lanes may be required at other locations to meet traffic demand and safe operations. Right turning lanes may be required to meet traffic demands or safety concerns. When provided, turning lanes shall meet the following criteria:

- (1) Storage length - A minimum of 150 feet of storage length for turning lanes on any arterial street shall be required. A minimum of 100 feet of storage length for turning lanes on all collectors shall be required.
- (2) Taper Length - The minimum taper length shall be 50 feet.
- (3) Left turning lanes from arterial roads shall be subject to longer storage lengths and tapers as determined on a case by case basis.

909.07 Driveway Intersections.**(a) Angle and Improvements.**

Driveways shall generally intersect streets at right angles. The portion of a driveway located within a public right-of-way, if any, shall be paved. Driveways providing access to parking lots which contain six or more spaces shall be paved in accordance with the parking lot requirements of the Parking and Loading Requirements Article of this Code.

(b) Driveway Design Standards.

(1) Residential Driveways. Driveways serving single-family detached or duplex residences shall meet the following requirements:

- a. Driveways shall be paved between the street and the principal building.
- b. Driveways shall be no less than 10 feet wide at the right-of-way line, no less than 22 feet in length measured from the back the sidewalk or from the back of curb or edge of pavement if there is no sidewalk, and shall provide a radius to the back of curb or edge of pavement of the roadway of no less than 5 feet. Any other driveway curb cuts shall conform to the standards below.
- c. Townhouse driveways for adjoining units shall be separated by at least a 4-foot wide landscaped strip.



Measure driveway length beginning at the back of sidewalk (above) or the back of curb (below) if there is no sidewalk.

(2) All driveways and driveway curb cuts on State highways shall conform to Georgia DOT standards unless City requirements are more restrictive.

- a. Driveway Detail 1 (32-foot width, 25-foot radius) for:
 1. Service Stations;
 2. Commercial Sites (over 800,000 square feet);
 3. Office/Institutional Complexes (over 100,000 square feet);
 4. Apartment/Condominium Complexes (over 200 units);
 5. Mobile Home Complexes (over 200 lots).
- b. Driveway Detail 2 (28-foot width, 25-foot radius) for:
 1. Commercial Sites (80,000 square feet or less);
 2. Office/Institutional Complexes (100,000 square feet or less);



3. Apartment/Condominium Complexes (199 units or less);
4. Manufactured Home Developments (199 lots or less).
- c. Driveway Detail 3 (32-foot width, 40-foot radius) for:
 1. Industrial Sites
- d. Driveway Detail 4 (Optional Design with Island) for:
 1. Private Commercial/Office Street Entrances;
 2. Private Entrances to Apartment/Condominium Complexes (over 200 units); and
 3. Private Entrances to Manufactured Home Developments (over 200 units).

(c) Auxiliary Lanes.

Along any major thoroughfare, a deceleration lane or acceleration lane, larger turning radius, traffic islands, or other devices or designs may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location.

(d) Corner Sight Distance.

All driveways approaching a minor collector or major thoroughfare shall provide adequate corner sight distance. The minimum corner sight distance from the driveway shall be equal to or exceed 10 times the regulated speed of the intersected street, as measured from the centerline of the driveway in both directions along the right-of-way line of the intersected street. As an alternative, the minimum corner sight distance requirement may be calculated using AASHTO Policy on Geometric Design of Highways and Streets, Chapter 9 (at-grade intersections), latest edition. The sight distance shall provide clear visibility of an object four feet above the intersected street viewed from the centerline of the driveway at the right-of-way line of the intersected street, at a height of 3.5 feet above the ground.

(e) Separation and Spacing.

All driveways except those serving single family residential units on individual lots, shall meet the following criteria:

- (1) Minimum separation from a street intersection: 100 feet from centerline of driveway to nearest right-of-way line of the intersecting street. For any driveway on a major thoroughfare having a centerline between 100 feet to 200 feet from the intersecting street right-of-way line, access restrictions, such as "right turn only," may be imposed to avoid traffic hazards. Greater separation may be required for safe operation of a free right lane, acceleration or deceleration lane, etc.
- (2) Minimum separation between driveways along the same side of a major thoroughfare: 100 feet between centerlines as measured along the roadway edge or back of curb.
- (3) Whenever possible, proposed driveways along one side of a street shall coincide with existing or proposed driveways on the opposite side of the street.
- (4) Maximum number of driveways serving a single project: one for each 400 feet of property frontage, or part thereof per street, along a major thoroughfare. This is not meant to be a spacing standard but only an expression of the total number of driveways that will be permitted serving a single project. In some cases, where the safe and efficient movement of traffic will not be adversely impacted, this criteria may be altered by the Director.

DIVISION II. PROJECT CONSTRUCTION STANDARDS

Section 910. Specifications.

Unless otherwise specifically set forth herein, all of the materials, methods of construction, and workmanship for the work covered in reference to street construction shall conform to the latest specifications of the Georgia Department of Transportation (Georgia DOT).

910.01 Sub-Grade Preparation for All Streets.

- (a) Sub-grade preparation shall be in accordance with Georgia DOT specifications and this Article.
- (b) If any sections of the sub-grade are composed of topsoil, organic, or other unsuitable or unstable material, such material shall be removed and replaced with suitable material and then thoroughly compacted as specified for fill or stabilized with stone or a geo-textile or geo-grid.
- (c) Fill shall be placed in uniform, horizontal layers not more than 8-inch thick (loose measurement). Moisture content shall be adjusted as necessary to compact material to 95% of maximum dry density except for the top 12 inches which shall be compacted to 100% of maximum dry density. Engineered reports shall be submitted to the City before moving forward.
- (d) After the 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 sub-grade shall be brought to the lines, grades, and typical roadway section shown on the plans. Engineered reports shall be submitted to the City before moving forward.
- (e) Utility trenches cut in the sub-grade shall be backfilled as specified herein. Compaction tests at the rate of one per 150 feet of trench shall be provided to verify compaction. City approval shall be required.
- (f) The sub-grade must pass roll testing prior to placement of the base material. With the approval of the Department, a geo-textile or grid may be used to stabilize a sub-grade that does not pass proofrolling.
- (g) When the street is to be used for construction traffic before the paving work is completed, a layer of stone (except crusher run) shall be laid as a traffic surface. This material shall not be used as a part of the base material. It may be worked into the subgrade, or it shall be removed before the base course is set up for paving.
- (h) Provisions shall 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 constructed. After installation, drainage under the curb to side slopes is required, using minimum 4 inch diameter pipe sections.

Section 911. Project Access Improvement Standards.

- (a) For sections wider than 4 feet, the widening section shall comply with the construction standards for new streets, in accordance with the street's category as shown on the Comprehensive Plan or the Planning and Development Department web page. The base course must pass roll testing prior to paving. If a delay in paving is reasonably expected by the Developer or the Planning and Development Department, the base shall be primed with 0.25 gallon of R.C. 70 per square yard and cured for 7 days before paving.

- (b) For sections less than 4 feet wide, 7 inches of Class "A" concrete base (5 inches on local and minor collector streets) and 1½ inches of "E" or "F" topping shall be required.

Section 912. New Local and Minor Collector Streets.

912.01 Local and Minor Collector Streets within a Residential Subdivision.

- (a) Asphalt Streets (NOTE: Only two-pass streets described below re acceptable for public dedication with the City of Duluth):

The following types of base materials may be used:

- (1) Crushed Stone Base

- a. Two-Pass Street:

- 1. The base course shall consist of at least 5 inches of graded aggregate base. After being thoroughly compacted and brought to proper section 2 inches of "B" binder shall be applied.
 - 2. If a delay in paving is reasonably expected by the Developer or the Department, the base shall be primed with 0.25 gallon of R.C. 70 per square yard the same day it is compacted, and cured for 7 days prior to paving.
 - 3. The final 1 inch of type "E" or "F" wearing course shall be applied after 90% of the houses on the street have been built, or prior to the end of the maintenance period (but after the 11th month), whichever occurs first. Prior to applying wearing course, a tack coat shall be applied to the binder course at a rate of no less than 0.05 gallons per square yard.
 - 4. Type of tack shall be approved by the Planning and Development Department prior to placement.

- b. One-Pass Street:

- 1. The base course shall consist of at least 6 inches of graded aggregate base. After being thoroughly compacted and brought to proper section the final 2 inches of type "E" or "F" wearing course shall be applied.
 - 2. If a delay in paving is reasonably expected by the Developer or the Department, the base shall be primed with 0.25 gallon of R.C. 70 per square yard the same day it is compacted, and cured for 7 days prior to paving.

- (2) Soil Cement Base.

- a. If the base material (resident soil) is unsatisfactory to the Planning and Development Department then a soil cement mix design with engineering test results acceptable to the Department. The design must come from a geo-technical 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 and/or 560 or AASHTO T135 and 136.
 - b. The minimum base course shall consist of at least 6 inches of suitable soil (high mica content not suitable) stabilized with 10% of Portland Cement by volume (approximately 42.3 pounds per sq. yd.). Depending on whether the street is to be constructed as an on-pass or two-pass street, please refer to Section 912.01, a(1)(a) or Section 912.01, a(1)(b) for the applicable binder and/or paving standards. Where the grade of

the street is 5% or greater, a single surface treatment course must be applied before the binder.

(b) Concrete Streets:

Five inches of 3500 psi concrete is to be applied on a stabilized subgrade, consisting of at least 150 pounds of stone per square yard mixed in 4 inches deep and compacted. The design and construction of the street shall comply with the Portland Cement Association standards.

912.02 Local Residential-Rural Streets.

Where allowed (in subdivisions zoned RA-200 and upgrading off-site substandard streets), Local Residential-Rural Streets do not require curb and gutter. The road base shall be extended 1 foot beyond the edge of pavement, and the shoulders shall extend 8 feet from the edge of pavement to the standard ditch section on each side (see Standard Drawings). Otherwise, the roadway shall comply with the standards for new residential subdivision streets, above.

912.03 Nonresidential Subdivision or Development Streets.

The following standards shall apply to new local and minor collector streets in nonresidential subdivisions and other nonresidential development projects.

(a) Asphalt Streets (NOTE: Only two-pass streets described below are acceptable for public dedication within the City of Duluth):

The following types of base materials may be used:

(1) Two-Pass Street (Crushed Stone Base):

- a. The base course shall consist of at least 7 inches of graded aggregate base. After being thoroughly compacted and brought to proper section, 2 inches of "B" binder shall be applied.
- b. If a delay in paving is reasonably expected by the Developer or the Department, the base shall be primed with 0.25 gallon of R.C. 70 per square yard the same day it is compacted, and cured for 7 days prior to paving.
- c. The final 1 inch of type "E" or "F" wearing course shall be applied after 90% of the buildings on the street have been built, or prior to the end of the maintenance period (but after the 11th month), whichever occurs first.
- d. Prior to applying wearing course, a tack coat shall be applied to the binder course at a rate of no less than 0.05 gallons per square yard. Type of tack shall be approved by the Planning and Development Department prior to placement.

(2) One-Pass Street (Crushed Stone Base):

- a. The base course shall consist of at least 8 inches of graded aggregate base. After being thoroughly compacted and brought to proper section the final 2 inches of type "E" or "F" wearing course shall be applied.
- b. If a delay in paving is reasonably expected by the Developer or the Department, the base shall be primed with 0.25 gallon of R.C. 70 per square yard the same day it is compacted, and cured of 7 days prior to paving.

(b) Concrete Streets.

- (1) Seven inches of Class "A" 3,500 psi concrete is to be applied to a stabilized subgrade, consisting of at least 150 pounds of stone per square yard mixed in four inches deep and compacted.
- (2) The design and construction of the street shall comply with the Portland Cement Association standards.

Section 913. New Major Thoroughfares.

Major thoroughfares abutting residential or non-residential development projects shall be constructed in accordance with designs prepared by Gwinnett County or Georgia D.O.T., or, if no design has been prepared, to the following standards as indicated by Table 9-H.

Table 9-H: Construction Standards for Major Thoroughfares

Street Category	Base (inches)	Binder (inches)	Topping (inches)
Principal Arterial	10" GAB	5"*	1 ½" E or F
Major Arterial	10" GAB	4"B	1 ½" E or F
Minor Arterial	10" GAB	3"B	1 ½" E or F
Major Collector	10" GAB	3"B	1 ½" E or F
Minor Collector	8" GAB	2"B	1 ½" E or F

*2 ½" type B binder and 2 ½" asphaltic concrete base.

913.01 Curb and Gutter.

All new streets and Project Access Improvements shall be provided with curb and gutter except in subdivisions zoned R-100, and subdivisions zoned RA-200, where swale ditches may be provided in lieu of curb and gutter. All gutters shall drain smoothly with no areas of ponding.

(a) Residential Curbing.

Residential curbing shall meet the following requirements:

- (1) Concrete shall be Class "A" (as defined by Georgia D.O.T.) and have a minimum strength of 3,000 PSI at 28 days.
- (2) Typical minimum section shall be 6" x 24" x 12".
- (3) Only vertical curbing is permitted.

(b) Industrial or Commercial Curbing.

Industrial or commercial curbing shall meet the following requirements:

- (1) Concrete shall be Class "A" (as defined by Georgia D.O.T.) and have a minimum strength of 3,000 PSI at 28 days.
- (2) Typical minimum section shall be 8" X 24" X 14".

- (3) Only vertical curbing is permitted.
- (c) Principal and Major Arterials Curbing.
 - (1) Concrete shall be Class "A" (as defined by Georgia D.O.T.) and have a minimum strength of 3,000 PSI at 28 days.
 - (2) Typical minimum section shall be 8" X 30" X 14.
 - (3) Only vertical curbing is permitted.

913.02 Construction Methods.

- (a) Curb and gutter shall be set true to line and grade, horizontal be field staked, and finished to the section shown on the plans. Along the Project Access Improvements of a road for which the Department of Transportation of the Department of Public Works resurfacing has been scheduled within 1 year of the new construction, the grade of the new gutter shall be placed 1 inch above the Project Access Improvement pavement grade in areas where drainage will not be adversely affected.
- (b) Line and grade shall be set by developer's engineer or surveyor on grade less than 2% and greater than 12%, and within 100 feet in both directions from all low points.
- (c) One-half inch expansion joints or pre-molded bituminous expansion joint material shall be provided at all structures and radius points and at intervals not to exceed 250 feet in the remaining sections of the curb and gutter.
- (d) Inferior workmanship or unprofessional construction methods resulting in unacceptable curb and gutter will be cause for rejection of the finished work.
- (e) Disturbed areas along all curbing shall be backfilled, stabilized, and grassed.

913.03 Underground Utilities.

- (a) All water and sanitary sewer utilities and storm drain facilities within the curbs shall be installed and the ditches backfilled and thoroughly compacted before any pavement or base is installed.
- (b) Once the base has been placed, all further installation of utilities under the roadway shall be bored or otherwise comply with Section 916, Street Cuts.
- (c) All utility manholes and valve boxes shall be brought flush to the finished grade within the roadway section.
- (d) All utility locations shall adhere to the details found in the Standard Drawings.

Section 914. Sidewalks.

914.01 Construction Standards.

- (a) Sidewalks shall be concrete and a minimum of 4 feet wide and 4 inches thick on local streets and a minimum of 5 feet wide and 4 inches thick on minor collector or major thoroughfares.
- (b) Concrete shall be Class "B" (as defined by Georgia DOT) and have a minimum strength of 2,200 psi at 28 days.
- (c) Sidewalks located in the public right-of-way under the jurisdiction of the Georgia Department of Transportation (DOT) shall be constructed in compliance with Georgia DOT design standard 9031W.

- (d) Curb ramps shall be provided at all curb termini and shall be a minimum of 3 feet in width exclusive of flared sides.
- (e) Expansion joints shall be provided at all property lines (extended) and driveway crossings. Control joints shall be provided every 10 feet.
- (f) Disturbed areas resulting from sidewalk construction shall be backfilled, stabilized and grassed.

(g) Cross Slope.

Sidewalks shall be constructed with a cross slope of ½ inch per foot. Sidewalks shall maintain this cross slope at driveway crossings or transition the sidewalk to a driveway with ramps and detectable warnings.

(h) Final Stabilization.

Disturbed areas resulting from sidewalk construction shall be backfilled, stabilized and grassed or landscaped.

(i) Georgia DOT Controlled Roads.

Sidewalks located in the right-of-way of roads under the jurisdiction of the Georgia DOT shall be constructed in accordance with Georgia DOT design and construction standards.

914.02 Installation Deadlines.

Sidewalks shall be installed prior to approval of a Final Plat or issuance of a Certificate of Occupancy (C.O.) in accordance with this Section unless a Performance Bond is posted. The cost of a sidewalk installation may be set aside in escrow only when proposed road improvements may impact the location of the sidewalk.

- (a) Sidewalks required on residential building lots shall be installed prior to issuance of a C.O. for each individual dwelling.
- (b) Sidewalks required on common or recreation areas shall be installed prior to issuance of a C.O. or Certificate of Completion, as appropriate.
- (c) Sidewalks required on other projects shall be installed prior to issuance of a C.O. or Certificate of Completion, as appropriate.

914.03 Sidewalk Curb and Ramp Design and Construction Standards.

- (a) Intersection radius curb ramps shall be provided at street intersections.
- (b) L-shaped mid-block curb ramps shall be provided to end sidewalks at the radius of the cul-de-sac turnarounds in residential subdivisions.
- (c) Straight ramps may be provided at intersections of curbed driveways and at streets without sidewalks.
- (d) Curb ramps shall meet the requirements of the City's Standard Drawings.

914.04 Damage Repair.

Damage to sidewalks and ramps caused by construction or development activity shall be repaired at no cost to the City within 30 days or prior to issuance of a Certificate of Occupancy, whichever is earlier.

Section 915. Utilities and Easements.**915.01 Placement of Utilities**

- (a) All authorized public underground utilities shall be located within the right-of-way of a public street or within an easement designated for such use. Within public street rights-of-way, placement of the various authorized utilities (power, gas, cable TV, water and sewer) shall conform to the specific locations designated for such use by the City of Duluth, as illustrated in Standard Drawings.
- (b) No other underground utilities, such as private lawn sprinkler systems, yard lighting, etc., shall be installed within a public right-of-way or easement except by authorization of the Department. Such authorization, if issued, shall require the applicant to assume all repair costs of the applicant's facilities should they be damaged during the course of installation, maintenance or repair of any of the public utilities authorized to occupy said right-of-way or easement.

915.02 Water System and Fire Hydrants.

- (a) The developer shall install or have installed a system of water mains connected to a public water supply system in accordance with the requirements of the authority having jurisdiction.
- (b) All water mains, fire hydrants and appurtenances shall be designed in accordance with the policies, standards, plans and specifications of the Gwinnett County Fire Prevention Ordinance and the water system having jurisdiction. Where jurisdiction resides with the Gwinnett County Water System, the public water mains and appurtenances shall be designed by the County Water System upon submittal of the Development Plans for the project.
- (c) Within the Gwinnett County Water System jurisdiction, water mains and appurtenances shall be installed after installation of the curbs and gutters and before paving, or after staking of the curb line and submission to the Water System of an as-graded survey of the street profile accompanied by a certification executed by the owner as required by the Water System that the subgrade will not change. Water mains shall be relocated as necessary to meet Water System regulations prior to Approval of Development Conformance, if improperly located to final curb line or grade.

915.03 Sanitary Sewer Disposal.

- (a) Connection to an approved sewage disposal system shall be made, which may require the construction of an on-site system or the extension of public sanitary sewerage and associated appurtenances, as required under the Water Pollution Control Regulations of Gwinnett County or as required by the Gwinnett County Health Department.
- (b) No septic tanks or other individual on-site sewage disposal system shall be allowed if public sewer is available. All structures shall connect to public sewer, when such sewer is available, in accordance with the Sewer Regulations of Gwinnett County. Sewer availability shall be determined by the Gwinnett County Water Pollution Control Division.
- (c) Communal on-site sewage disposals are prohibited. Privately financed wastewater disposal plants, septic tanks, or other sewage treatment system, serving more than one residence or more than one property, are prohibited. If a property does not use an individual on-site sewage disposal system, it must be connected to a sewer leading to the publicly owned treatment works.

- (d) Lots with septic tanks and tile drain-field sewerage disposal systems shall contain the contiguous area outside of the 100-year floodplain as required by the Gwinnett County Health Department.
- (e) The Gwinnett County Health Department may require notation that certain lots must meet additional requirements prior to issuance of a building permit, or otherwise limit development relative to Health Department regulations.
 - (1) Such lots may include lots upon which adequate depth to water table must be demonstrated during the appropriate season of the year, adequate percolation tests must be performed, limitations upon the number of bedrooms in a dwelling, etc.,
 - (2) No lot shall be included on a Final Plat which the Health Department is not confident will meet all Health Department regulations at a reasonable cost or within a reasonable period of time, except lots proposed to be served by sanitary sewer in subdivision where "dry" sewer has been installed. Such lots shall be noted - "Approval by Water Pollution Control for connection to sanitary sewer required prior to issuance of a building permit."

915.04 Easements.

- (a) Temporary construction easements and permanent easements for public utilities, drainage or other public facilities shall be dedicated to the City of Duluth and/or Gwinnett County in accordance with City Requirements. All easements shall be stabilized in accordance with the Manual for Erosion and Sediment Control in Georgia.
- (b) Drainage easements are required for any part of the drainage system which is designed to carry storm water runoff from more than one parcel, existing or proposed.
 - (1) Drainage easements for improved ditches, pipe construction, and detention facilities shall be cleared, opened, and stabilized at the time of development to control surface water run-off (See also the Erosion Control and Stormwater Management Article of this Development Code).
 - (2) Run-off slope and sideslopes shall be specified by the Developer's Engineer, according to good engineering practice.
 - (3) Drainage easements for storm drain pipes that carry water shall be provided according to the minimum requirements found in Table 9-I below, and shall conform to City Standards.
 - (4) The minimum easement width shall be based on the pipe diameter (span) plus 2 feet, plus two times the pipe invert depth. This value shall be rounded up to the nearest 5 feet. For pipes exceeding 16 feet in depth, a pre-conference should be held with the City to determine what additional requirements may be required.

Table 9-I: Easements for Storm Drain Pipes

Pipe Size (ft)	Maximum Pipe Invert Depth (Feet) Minimum Easement Width (Feet)												
	4	5	6	7	8	9	10	11	12	13	14	15	16
1.25	20	20	20	20	20	25	25	30	30	30	35	35	40
1.5	20	20	20	20	20	25	25	30	30	30	35	35	40
2.0	20	20	20	20	20	25	25	30	30	30	35	35	40

Table 9-I: Easements for Storm Drain Pipes

Pipe Size (ft)	Maximum Pipe Invert Depth (Feet) Minimum Easement Width (Feet)												
2.5	20	20	20	20	25	25	25	30	30	35	35	35	40
3.0	20	20	20	20	25	25	25	30	30	35	35	35	40
3.5	NA	20	20	20	25	25	30	30	30	35	35	40	40
4.0	NA	20	20	20	25	25	30	30	30	35	35	40	40
4.5	NA	NA	20	25	25	25	30	30	35	35	35	40	40
5.0	NA	NA	20	25	25	25	30	30	35	35	35	40	40
5.5	NA	NA	NA	25	25	30	30	30	35	35	40	40	40
6.0	NA	NA	NA	25	25	30	30	30	35	35	40	40	40

- (c) Permanent sanitary sewer easements shall be no less than 20 feet in width when no other parallel utilities are located therein. When warranted, temporary construction easement widths shall be determined by the Gwinnett County Water Pollution Control Division.
- (d) A common easement for sanitary sewer and drainage purposes may be allowed if the pipes are parallel and at least 10 feet is provided between pipes (on center). The easement width shall be equal to the width shown in Table 9-I plus the width distance separating the pipes (minimum of 10 feet).
- (e) Drainage easements shall be provided where a development is traversed by or contains a water course, impoundment, detention facility, improved channel, floodplain, natural stream or channel. It shall conform substantially to the flooding limits of the 100 year storm based on fully developed conditions per the Land Use Plan, but shall be no less than 20 feet in width.
- (f) Drainage easements off the street right-of-way shall be clearly defined on the Final Plat. The property owner will be required to keep the easement free of obstruction in such a way as to assure the maximum designed flow at all times. The property owner shall not alter any drainage improvements without the prior written approval from the City. No structure shall be constructed or erected in an easement without the prior written approval from the City. Driveways may cross perpendicular to the easement. Property owners may plant landscaping in an easement that is piped; however, the City is not responsible for replacing the landscape material located in the easement when it is removed to maintain the drainage system.
- (g) All drainage, sewer, access or other easements which were required to be cleared shall be fine graded and grassed within 10 days of completing construction work. The use of sediment control measures may be required to protect the area until a comprehensive vegetative cover is obtained.

915.05 Right-of-Way Protection.

- (a) Rights-of-way Occupancy Registration.
 - (1) Each utility who occupies, uses or has facilities in the rights-of-way at the time of passage of the ordinance from which this Section is derived, including by lease, sublease or assignment, to operate facilities located in the rights-of-way, unless specifically exempted by

state, federal law or this Code, shall file a registration statement with the department within 90 days of the effective date of the ordinance from which this Section is derived.

- (2) Following the effective date of the ordinance from which this Section is derived, each utility who seeks to have facilities located in any rights-of-way under the control of city, unless specifically exempted by state, federal law or this Code, shall file a notification of construction with the department.

(b) Registration Procedure.

The registration information provided to the city shall be on a form approved by the city and include, but not be limited to:

- (1) The name, legal status (i.e. partnership, corporation, etc.), street address, email address if applicable, and telephone and facsimile numbers of the utility filing the permit registration statement (the "registrant"). If the registrant is not the owner of the facility to be installed, maintained or repaired in the right-of-way, the registration shall include the name, street address, email address if applicable, and telephone and facsimile numbers of the owner.
- (2) The name, street address, email address if applicable and telephone and facsimile numbers of one or more facilities representative(s). Current information regarding how to contact the facilities representative(s) in an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the city at all times.
- (3) A copy, if requested, of the utility'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.
- (4) 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 registration.

(c) Issuance of Written Acceptance of Registration.

- (1) If a registration is incomplete, the Planning and Development Director shall notify the registrant and shall provide a reasonable period of time in which to complete the registration. If a registration is complete, the Planning and Development Director shall so notify the utility in writing.
- (2) Acceptance of the registration shall not convey title in the rights-of-way. Acceptance of the registration is only the nonexclusive, limited right to occupy rights-of-way in the city for the limited purposes stated in the acceptance. Acceptance of the registration does not excuse a utility from obtaining the permits required by city ordinances nor from obtaining appropriate access or pole attachment agreements before using the facilities of others, including the city. Acceptance of the registration does not excuse a utility from notifying the city of construction as required herein.

(d) Facilities in Place without Registration.

Beginning one year after the effective date of the ordinance from which this Code Section is derived, any facilities or part of a facility found in a right-of-way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid service

agreement exists with the city, may be deemed to be a nuisance and an unauthorized use of the rights-of-way. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities, evicting the utility from the right-of-way; prosecuting the violator; and/or any other remedy provided by city ordinance or otherwise allowed in law or in equity.

(e) Notification to City of Construction is Required.

Written notification to the Planning and Development Director from the utility is required prior to any of the following activities:

- (1) Before any utility does any work to construct, install, maintain, remove or relocate facilities on, along, over or under the right-of-way in the city; or
- (2) Construction adjacent to the rights-of-way in the city that require tree trimming within the rights-of-way.

(f) Notification Procedure.

The written notification shall be submitted on a form provided by the Planning and Development Director and shall specifically include:

- (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 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) The estimated cost of the project;
- (7) 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 to any member of the public caused by work of the utility performed under authority of the permit issued.

(g) Locate Requests Required.

As provided in O.C.G.A § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended. 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 forty-eight (48) hours' notice by submitting a locate request to the utility protection center, beginning the next business day after such notice is provided, excluding hours during days other than business days.

(h) Conditions of Street Occupancy.

Failure to comply with the terms and conditions set forth in this Article may result in revocation of registration and removal of facilities from the rights-of-way.

- (1) The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting Documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the Article as if fully set forth herein, subject to the amendments and modification contained in this Code Section. A copy of the manual shall be maintained at the offices of the Planning and Development Director or his designee and open for public inspection. Any conflicts between the provisions of this Code Section 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 Duluth municipal equivalents
 - (2) *Protection of traffic and roadway.* In conformance with city policy, 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 department 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.
 - (3) *Grading.* If the grades or lines of any street within the city right-of-way are changed at any time 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 at least ten (10) business days' 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 relocate 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.
 - (4) *Installation of poles and other wire holding structures and relocation.* Unless otherwise provided in a valid service agreement, no placement of any pole or wire holding 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.
- (i) *Restoration of Property.*
- A utility shall be liable, at its own cost and expense, to replace or repair, any street, facilities or property or structure thereon, thereunder or 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 [event] that caused such disturbance or damage. If utility does not commence such replacement or repair after 20 working 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.

(j) Discontinuance of Operations, Abandoned and Unused Facilities.

- (1) A utility who has discontinued or is discontinuing operation of any facilities in the city shall:
 - a. Provide information satisfactory to the city that the utility's obligations for its facilities in the rights-of-way under this Code Section and any other provision in the codified ordinances or other laws have been lawfully assumed by another utility;
 - b. Submit a written proposal to re-use its facilities;
 - c. Submit a written proposal for abandonment of facilities. Said proposal must be approved by the Planning and Development Director;
 - d. Remove its entire facilities within a reasonable amount of time and in a manner acceptable to the city; or
 - e. Submit to the city, in good faith and within a reasonable amount of time, a proposal for transferring ownership of its facilities to the city. If a utility proceeds under this clause, the city may, at its option do one (1) or more of the following:
 1. Purchase the facilities;
 2. Accept donation of some or all facilities; or
 3. Require the utility to post a bond in an amount sufficient to reimburse the city for its reasonably anticipated costs to be incurred in removing the facilities.
- (2) Facilities of a utility who fails to comply with the above provision shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities, evicting the utility from the right-of-way; prosecuting the violator; and/or any other remedy provided by city ordinance or otherwise at law or in equity.

(k) Termination of Registration.

- (1) The registration statement shall remain in place for one year and renew each subsequent year automatically unless the utility is in default. The Planning and Development Director shall 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 registration application or any law of the city, state, or federal government;
 - b. Attempted to evade any provision or requirement of this Code Section;
 - c. Practiced any fraud or deceit upon city; or
 - d. Made a material misrepresentation of fact in its application for registration.
- (2) 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 approval of registration. If the Planning and Development Director decides there is cause or reason to terminate, the following procedure shall be followed:
 - a. 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.

- b. If the utility fails to cure within 15 calendar days, the city may declare the registration terminated.
- (l) Unauthorized Use of Public Rights-of-Way.
 - (1) No utility shall use the rights-of-way to operate any facilities that have not been authorized by the city in accordance with the terms of this Code Section.
 - (2) No utility shall place or have placed any facilities in, on, above, within, over, below, under, or through the rights-of-way, unless allowed under this Code Section.
 - (3) Each and every unauthorized use shall be deemed to be a violation and a distinct and separate offense. Each and every day any violation of this Code Section continues shall constitute a distinct and separate offense.
 - (4) No utility shall fail to comply with the provisions of this Code Section. Each and every failure to comply shall be deemed a distinct and separate offense. Each and every day any violation of this Code Section continues shall constitute a distinct and separate offense.
- (m) Other Provisions.
 - (1) Reservation of Regulatory and Police Powers.

The city by issuing a written approval of registration under this Code Section, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or which may be hereafter vested in the city under the Constitution and Laws of the United States, State of Georgia, and under the provisions of the city's codified ordinances to regulate the use of the rights-of-way. The utility by applying for and being issued a written approval of registration, 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 rights 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. In particular, all utilities shall comply with city zoning and other land use requirements pertaining to the placement and specifications of facilities.
 - (2) Compliance.

No utility shall be relieved of its obligation to comply with any of the provisions of this Code Section by reason of any failure of city to enforce prompt compliance.
 - (3) Appeals.

See the Appeals Article of this Development Code.

Section 916. Street Cuts.

- (a) All utility construction plans within City right-of-way shall be reviewed and approved by the Department before construction begins. Street cuts shall not be allowed unless deemed absolutely necessary due to the presence of rock, the need to tap into an existing line beneath the road surface, or other circumstance which makes boring impossible or infeasible.
- (b) No City maintained street shall be cut, bored or demolished in any way until a Land Disturbance Permit FOR STREET CUT ONLY is approved by the Planning and Development Department.

- (1) The pre-requisites for issuing a Land Disturbance Permit as described in the Procedures and Permits Article of this Development Code shall be eliminated unless land disturbance outside the public right-of-way is necessary.
- (2) A Maintenance Bond shall be submitted to the Department prior to issuance of a Land Disturbance Permit and prior to commencement of work.
- (3) Maintenance Bond amounts are as follows:
 - a. Right-of-Way of street up to 80 feet \$500.00
 - b. Right-of-Way of street 81 feet or more \$1,000.00

The Maintenance Bond shall be held for a period of six months from the completion date of the project. The Duluth Department of Public Works shall inspect the street cut prior to releasing the Maintenance Bond. Said street cut shall not be accepted by the City until the Maintenance Bond is released in writing.

- (c) If approved, all trenches shall be backfilled and compacted the same day the trench is opened.
 - (1) Trenches under the paving shall be returned to 95% compaction.
 - (2) Trenches elsewhere shall be returned to 90% compaction.
 - (3) See Section 910.01 for trench compaction and test requirements.
- (d) All trenches under paving shall be concreted with 8" of Class "A" concrete base and 1½ inch of type "E" or "F" wearing course asphalt is to be spread.
 - (1) The paving cut shall be widened to a minimum of 9" beyond the edges of the trench.
 - (2) The edges of the paving cut shall be smooth.
- (e) All such work shall be coordinated through the Department of Planning and Development, Department of Public Works and the Gwinnett County Department of Public Utilities prior to construction. Contact the Duluth Police Department at least 48 hours in advance of closure of traffic lanes.

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Article 10. Erosion Control and Stormwater Management

Article 10 contains the requirements that relate to the impact of rainfall events on the natural and manmade environment, including the erosion and siltation effects of site grading and land disturbance activities and the control of stormwater flows.

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Article 10. Erosion Control and Stormwater Management

DIVISION I. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

Section 1001. Standards Incorporated by Reference.

For the proper implementation of the requirements of this ordinance, the City will utilize policy, criteria, and information established by the Georgia Soil and Water Conservation Commission and within the latest edition of the *Manual for Erosion and Sediment Control in Georgia*.

Section 1002. Definitions Related to Soil Erosion, Sedimentation Pollution Control.

The following definitions shall apply in the interpretation and enforcement of Division I of this Article, unless otherwise specifically stated:

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 (DNR). The Board of Natural Resources.

Certified Personnel. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Coastal Marshlands. Shall have the same meaning as in O.C.G.A. 12-5-282.

Commission (GSWCC). 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 (DNR). 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 shall practice in a manner that complies with applicable Georgia law governing professional licensure.

Director (DNR). The Director of the Environmental Protection Division or an authorized representative.

District. The 15th Soil and Water Conservation District.

Division (EPD). 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, as a minimum protections at least as stringent as the State General Permit, best management practices, and requirements in Section 1004.03 of this Code.

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 Plan (uniformly covered with landscaping material in planned landscaped areas), or equivalent measures as defined in the Manual (excluding a crop of annual vegetation and a seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

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

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

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

Land-Disturbing Activity. Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in Section 1003(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 paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Local Issuing Authority (LIA). The governing authority of any county or municipality which is certified pursuant to subsection (a) O.C.G.A. 12-7-8.

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 colloiddally 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: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

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, Land Disturbance. The authorization necessary to conduct a land-disturbing activity under the provisions of this Development Code.

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

Phase or Phased. Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

Properly Designed. Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (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 15th 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 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.

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.

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.edp.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:

Permanent seeding, sprigging or planting, producing long-term vegetative cover, or

Temporary seeding, producing short-term vegetative cover; or

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.

Section 1003. Exemptions.

Division I of this Article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (a) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "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 residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection

- (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall 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 aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
 - (f) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in 1004.03(o) and Section 1004.03(p) of this Article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
 - (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 one (1) acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by paragraphs (a),(b),(c),(d),(e),(f),(g),(i),(j) of this Section 1003;
 - (i) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, 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 the Department of Transportation or the State Road and Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the Local Issuing Authority, the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
 - (j) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric

membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the Local Issuing Authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and

- (k) Any public water system reservoir.

Section 1004. Minimum Requirements for Erosion, Sedimentation and Pollution Control Using BMPs.

1004.01 General Provisions.

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of Division I of this Article and the NPDES General Permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by Division I of this Article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of Section 1004.02 and Section 1004.03 of this Article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of Division I of this Article and the NPDES General Permit.

1004.02 Minimum Requirements; BMPs.

- (a) Best management practices as set forth in Section 1004.02 and Section 1004.03 of this Article shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director or to any other allegation of noncompliance with paragraph (b) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
- (b) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local Issuing Authority or of any state general permit issued by the Division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five (5) acres.
- (c) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a Local Issuing Authority or of any state general permit issued

by the Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

- (d) The Director 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.
- (e) The LIA may set more stringent buffer requirements than stated in Section 1004.03(o), Section 1004.03(p) and Section 1004.03(q), in light of O.C.G.A. § 12-7-6 (c).

1004.03 Minimum Requirements; Specific.

The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall 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:

- (a) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- (b) Cut-fill operations must be kept to a minimum;
- (c) Development plans must conform to topography and soil type so as to create the lowest practicable erosion potential;
- (d) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (e) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (f) Disturbed soil shall be stabilized as quickly as practicable;
- (g) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (h) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (i) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
- (j) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (k) Cuts and fills may not endanger adjoining property;
- (l) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (m) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;

- (n) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in Section 1004.02(b) of this Article;
- (o) Except as provided in paragraph (p) and (q) of this subsection, 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 determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; 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 pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:
 - (1) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - (2) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not 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; and
- (p) 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" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed ; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the 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 may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- (1) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - (2) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not 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.
- (q) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Chapter 5 of Title 12 of this title, the "Coastal Marshlands Protection Act of 1970." And the rules and regulations promulgated thereunder, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286, for maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented, on the landward side of any currently serviceable shoreline stabilization structure, or for the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented. For the purposes of this paragraph maintenance shall be defined as actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design and serviceable shall be defined as usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.
- (1) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat; and

- (2) The buffer shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer, provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- (3) The buffer shall not apply to any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to December 31, 2015; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented or any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.
- (4) Activities where the area within the buffer is not more than 500 square feet or that have a "Minor Buffer Impact" as defined in 391-3-7-.01(r), provided that the total area of buffer impacts is less than 5,000 square feet are deemed to have an approved buffer variance by rule. Bank stabilization structures are not eligible for coverage under the variance by rule and notification shall be made to the Division at least 14 days prior to the commencement of land disturbing activities.
- (r) Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any Local Issuing Authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in Section 1004.02 and Section 1004.03 of this Article.
- (s) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in Division 1 of this Article or the terms of the permit.

Section 1005. Application/Permit Process.

1005.01 General.

The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The Local Issuing Authority shall review the tract to be developed and the area surrounding it. They shall consult this Development Code, 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 and/or operator are the only parties who may obtain a permit.

1005.02 Application Requirements.

- (a) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Duluth without first obtaining a permit from the City of Duluth to perform such activity and providing a copy of Notice of Intent submitted to EPD if applicable.
- (b) The application for a permit shall be submitted to the City of Duluth and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in Section 1005.03 of this Article. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of Section 1004.02 and Section 1004.03 of this Article will be met. Applications for a permit will not be accepted unless accompanied by three (3) copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the

designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-10.

- (c) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the Division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the Division, regardless of the existence of a Local Issuing Authority in the jurisdiction.
 - (d) Immediately upon receipt of an application and plan for a permit, the Local Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The District shall approve or disapprove a plan within 35 days of receipt. Failure of the District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the Local Issuing Authority. No permit will be issued unless the plan has been approved by the District, and any variances required by Section 1004.03(o), Section 1004.03(p) and Section 1004.06(q) have been obtained, all fees have been paid, and bonding, if required as per this Section 1005.02(f), 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 shall 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 shall be considered an approval of the revised Plan submittal.
 - (e) If a permit applicant has had two or more violations of previous permits, Division I of this Article, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the Local Issuing Authority may deny the permit application.
 - (f) 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, prior to issuing the permit. If the applicant does not comply with Division I of this Article 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 shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the Local Issuing Authority with respect to alleged permit violations.
- (1) The City of Duluth shall require the posting of a bond before any permits are granted pursuant to Division I of this Article.
 - a. The required bond may be posted in any of the following methods or in a combination of methods: cash, irrevocable letter of credit, or government security.
 - b. The required bond shall be in the amount of \$3,000.00 per acre or portion of an acre disturbed.
 - (2) The procedure for the forfeiture of the required bond for failure to comply with this Division I of this Article is set forth in Section 1007.03.

1005.03 Plan Requirements.

- (a) Plans must be prepared to meet the minimum requirements as contained in Section 1004.02 and Section 1004.03 of this Article, 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 Division 1 of this Article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and State laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the Commission and in consultation with the Division and the Stakeholder Advisory Board created pursuant to O.C.G.A. 12-7-20.
- (b) Data required for site plan shall include all the information required from the appropriate Erosion, Sedimentation and Pollution Control Plan Review Checklist established by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

1005.04 Permits.

- (a) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the Local Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
- (b) No permit shall 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 Division I of this Article, any variances required by Section 1004.03(o), Section 1004.03(p) and Section 1004.03(q) are obtained, bonding requirements, if necessary, as per Section 1004.03(f) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the Local Issuing Authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (c) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of Division I of this Article, and any other ordinances relating to land development, as are applied to private persons and the Division shall enforce such requirements upon the Local Issuing Authority.
- (d) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (e) 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 his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of Division I of this Article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
- (f) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7 (f) (1).

Section 1006. Inspection and Enforcement.

- (a) The City of Duluth 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 shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of Division I of this Article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of Division I of this Article.

- (b) The Local Issuing Authority must amend its ordinances to the extent appropriate within twelve (12) months of any amendments to the Erosion and Sedimentation Act of 1975.
- (c) The City of Duluth shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in Division I of this Article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (d) No person shall 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 shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (e) The District or the Commission or both shall semi-annually review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to O.C.G.A. 12-7-8 (a). The District or the Commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The District or the Commission shall notify the Division and request investigation by the Division if any deficient or ineffective local program is found.
- (f) The Division may periodically review the actions of counties and municipalities which have been certified as Local Issuing Authorities pursuant to Code Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the Division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a Local Issuing Authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the Division, the Division shall revoke the certification of the county or municipality as a Local Issuing Authority.

Section 1007. Penalties and Incentives.

1007.01 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 Division I of this Article without first obtaining said permit, the person shall be subject to revocation of his

business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Local Issuing Authority.

1007.02 Stop-Work Orders.

- (a) For the first and second violations of the provisions of Division I of this Article, the Director or the Local Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Director or the Local Issuing Authority shall 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 Director or the Local Issuing Authority shall issue an immediate stop-work order in lieu of a warning;
- (b) For a third and each subsequent violation, the Director or the Local Issuing Authority shall issue an immediate stop-work order; and;
- (c) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- (d) 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 or by the Director or his or her Designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the Local Issuing Authority or by the Director or his or her Designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

1007.03 Bond Forfeiture.

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of Division I of this Article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 1005.02(f). 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.

- (a) A written notice stating that there has been a failure to comply with the approved plan or Division I of this Article shall be served on that person. The written notice shall contain the following:
 - (1) a description of the problem that constitutes a failure to comply,
 - (2) the measures necessary to achieve compliance and
 - (3) a specific date and time by which compliance must be obtained.
- (b) If compliance has not occurred before the date and time specified in the written notice, the person shall be deemed in violation of Division I of this Article and all remedies under Division I shall be available to the City. The bond required under Section 1005.02(f) shall be deemed forfeited upon failure to comply within the time frame allowed by the written notice.

- (c) In order to use the forfeited bond, the City must send written notice to the person stating that the bond has been forfeited by the failure to obtain compliance within the specified time. The notice of bond forfeiture shall include information concerning the appeal of the automatic forfeiture. The notice shall state that an appeal must be filed with the City Manager within ten days of the date of the notice of bond forfeiture. The notice shall state that if an appeal is not filed within ten days of the date of the notice of bond forfeiture, the City will use the bond to obtain compliance with the City's ordinance.
- (d) Any appeal shall be heard in accordance with the procedures of the Appeals Article.

1007.04 Monetary Penalties.

- (a) Any person who violates any provisions of Division I of this Article, or any permit condition or limitation established pursuant to Division I of this Article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in Division I of this Article shall be liable for a civil penalty not to exceed \$2,500.00 per day.
- (b) For the purpose of enforcing the provisions of Division I of this Article, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation.
- (c) 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 ordinance under county ordinances approved under this ordinance shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Section 1008. Education and Certification.

- (a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the Division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- (b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the Commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.
- (c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of Division I of this Article.
- (d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

Section 1009. Administrative Appeal and Judicial Review.

1009.01 Administrative Remedies.

The suspension, revocation, modification or grant with condition of a permit by the Local Issuing Authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the Zoning Board of Appeals within ten days after receipt by the Local Issuing Authority of written notice of appeal.

1009.02 Judicial Review.

Any person, aggrieved by a decision or order of the Local Issuing Authority, after exhausting his administrative remedies, shall have the right to appeal denovo to the Superior Court of Gwinnett County.

Section 1010. Liability.

- (a) Neither the approval of a plan under the provisions of Division I of this Article, nor the compliance with provisions of Division I of this Article shall 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 shall neither constitute proof of nor create a presumption of a violation of the standards provided for in Division I of this Article or the terms of the permit.
- (c) No provision of Division I of this Article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any Waters of the State as defined thereby.

DIVISION II. SITE GRADING**Section 1011. Requirements****1011.01 Grading Plan**

- (a) Grading shall be done in accordance with the lines and grades shown on the approved Grading Plan.
- (b) Grading plans shall show existing and proposed contour lines at an interval of no more than 2 feet. Grading plans shall outline the areas which are required to remain undisturbed (i.e., Tree Protection Areas, buffers, etc.) and shall indicate protective fencing or staking to be placed surrounding such areas.
- (c) Grading for roads and improved ditches shall be shown.
- (d) A grading plan showing building pad locations shall be done for residential subdivisions, unless a modification application is approved, having a zoning that requires a lot size of 12,000 square feet or less or a density of 4 units per acre or more. The intent of this regulation is to ensure adequate lot to lot drainage. Granting a modification will not nullify the intent of these regulations when the layout has a minimum lot area of 14, 520 square feet and a minimum lot width of 90 feet.

1011.02 Metropolitan River Act

If the property is within the jurisdiction of the Metropolitan River Protection Act, the grading shall be consistent with the River Corridor Certificate approved for the project.

1011.03 Embankments

Embankments shall be placed in uniform layers not to exceed a compacted thickness of 6 inches per layer and shall be compacted to a density of 95% of the maximum laboratory dry weight per cubic foot as determined by AASHTO Method T-99 in all areas where structure, parking lots and drives, streets, and utilities are to be placed. All other embankments are to be compacted to at least 85%.

1011.04 Slopes

- (a) The maximum slopes for cut and/or fill shall be 2:1 (2 feet of horizontal run for each foot of rise or fall), except for the following: earthen dam embankments, rock cuts, where certified by a professional geotechnical engineer, or as discussed in Section 1011.05.
- (b) Earthen dam embankments shall be 3:1 maximum unless a modification application is approved. The intent of the earthen dam embankment slope regulation is to provide for public safety, soil stability, and dam maintenance considerations. The depth of cut referred to herein shall be the maximum cut or fill that shall be allowed to occur in any one section of cut or fill. The slope of cut or fill shall be uniform throughout for each section of cut or fill unless benching is approved by the Planning and Development Department. When a cut is made in rock that requires blasting, the slope may be steeper if presplitting is employed and upon submission of a geotechnical report which substantiates the integrity of the rock in the steeper condition, subject to the review and approval of the Director. (Note: No blasting shall occur unless a permit has been obtained from the Fire Marshal's Office.)

1011.05 Soil Stabilization

While most soils in the area can be safely stabilized at a 2:1 slope, some soils exhibit a low shearing resistance and a low cohesiveness. These soils typically are micaceous silts and sandy soils with little or no clay. If the 2:1 slope shows evidence of shearing, non-cohesiveness, sliding, or inability to maintain compaction, the slope shall be stabilized at 3:1 or by using such mechanical methods as needed (such as retaining walls or "grow mats" stapled in place) to maintain slope, height, and integrity.

DIVISION III. STORMWATER CULVERT AND PIPE DRAINAGE SYSTEMS

Section 1012. Purpose

The purpose of Division III of this Article to establish the standards for stormwater conveyance facilities for the protection of public rights-of-way and adjoining private properties. Stormwater conveyance facilities will be designed to carry runoff from more than one parcel, existing or proposed, in a manner that maintains the public health, safety, and environment. In order to reduce flooding, promote adequate drainage, and reduce maintenance certain pipe materials are required depending upon usage and location of pipes. Stormwater conveyance systems may include but are not limited to culverts, storm drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, and ditches.

Section 1013. Standards Incorporated by Reference.

The latest edition of the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual, including any relevant local addenda to these manuals, will be utilized as policy, criteria, and information for the proper implementation of the requirements of this code, including technical specifications and standards. These manuals may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience."

The latest edition of the Standard Specifications Construction of Transportation Systems by the Georgia Department of Transportation, including any relevant local addenda to these standards, is hereby incorporated by reference into Division III of this Article.

Section 1014. Standard Specifications

1014.01 Allowable Pipe Materials.

- (a) Reinforced concrete pipe (RCP) is required to be used for stormwater conveyance within the right-of-way or in systems that are intended for dedication to the City of Duluth.
- (b) RCP is required when pipe slopes are less than 1%.
- (c) RCP is required when conveying waters of the state.
- (d) RCP is required for detention ponds/ vault outlet control structures and outlet pipes.
- (e) Other pipe materials may be used to convey onsite stormwater runoff on private development projects in accordance with the manufacturer's specifications and Professional Engineer's design.
- (f) RCP shall be a minimum of Class III, and shall be provided in joint lengths not less than 8 feet each. All joints shall be bell and spigot or tongue and groove type, with a rubber gasket conforming to ASTM C-443. Pipe shall be manufactured in accordance with AASHTO M-170 and/or ASTM C-76. Class of pipe and wall thickness shall be in accordance with 1030-D, Georgia DOT specification, Table No.1.
- (g) All stormwater management pipe systems must use watertight joints.
- (h) The City may approve an alternative pipe material.

1014.02 Pipes in Dams.

- (a) Only Reinforced Concrete Pipe (RCP) shall be used for all dams 9 feet or more in height with an impounding capacity of 20 acre-feet or more unless the Georgia Safe Dams Program requires another material.

Section 1015. Pipe Installation**1015.01 General Installation Requirements.**

- (a) All stormwater pipes must be installed correctly with adequate pipe bedding, backfill and stormwater joint techniques. Proper installation practices may be found for the following or through information provided by the manufacturer or certifying engineer:
 - (1) Reinforced Concrete Pipe (RCP) – ASTM C 1479-01
 - (2) Double Walled High-Density Polyethylene (HDPE) – ASTM D 2321
 - (3) Corrugated Double Walled Polyvinyl Chloride (PVC) – ASTM D 2321
 - (4) Corrugated Metal Pipe (CMP) – ASTM A 798
 - (5) Non-Reinforced Concrete Pipe (NRCP) – ASTM C-14
- (b) Prior to approval of a Final Plat or issuance of a Certificate of Occupancy, the City may require the submittal of a certification from a mandrel testing agency (or similar) indicating that all installed pipe does not exceed 5% deflection. Video condition assessment may be conducted by the City or required by the City on storm drain installations before approval of the Final Plat or issuance of the Certificate of Occupancy. If required, video condition assessment should be done after completion of all activities that may damage the pipe but prior to placement of base, paving or landscaping over or near the pipe. If video condition assessment indicates problems such as pipe deformation, cracking or joint separation, or any structural pipe score higher than a "0" on NASSCO's PACP (Pipeline Assessment and Certification Program) inspection scale, the pipe shall be removed and replaced before approval is granted.
- (c) The Applicant for a Development Permit shall sign an affidavit at the time of Development Application acknowledging that compaction testing, pipe inspection, and bedding and backfill material analysis (for materials other than Graded Aggregate Base (GAB) or Crusher Run) will be completed by the

Applicant and the City prior to approval of the Final Plat or issuance of a Certificate of Occupancy. The applicant will certify that they will correct any identified issues prior to approval of the Final Plat or issuance of a Certificate of Occupancy.

- (d) Applicant will provide a one year warranty on the pipe installation.

1015.02 Bedding, Structural Backfill and Final Backfill.

- (a) At the time of Development Application the Applicant for a Development Permit shall specify which pipe materials will be used and will identify the bedding and backfill detail that will be used for each pipe.
- (b) Construction Loads and Minimum Covers. When drainage pipe is installed prior to the completion of grading, a minimum of 4 feet of fill shall be provided where needed to adequately protect the drainage structure during the land development phase, unless the structure itself is designed to withstand the anticipated live load during construction.
- (c) Junction Boxes and Catch Basins.
 - (1) Catch basins and drop inlets shall be constructed in accordance with City of Duluth requirements. Junction boxes shall be in accordance with GDOT Standards 1011a or 1011ap. All catch basins and junction boxes in non-traffic areas shall have metal manhole frames and lids. In roadways or areas subject to vehicles, manhole castings shall be in accordance with GDOT Standard 1011a.
 - (2) All junction boxes shall extend to the ground surface. Buried junction boxes are prohibited.
- (d) Other Structures. Natural bottom arches and box culverts may be used in accordance with the latest Standard Specifications of the Georgia Department of Transportation.
- (e) Storm Sewer As-Built.

Prior to Final Plat approval or issuance of a Certificate of Occupancy, the Applicant for a Development Permit shall submit a "Storm Sewer As-Built". The as-built shall show details of compliance with this specification.

Section 1016. Stormwater System Design Criteria.

1016.01 General Design Criteria.

- (a) Stormwater conveyance facilities, which may include but are not limited to culverts, storm drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutters, swales, channels, and ditches, shall be provided for the protection of public rights-of-way and private properties adjoining projects' sties and/or public rights-of-way. Stormwater conveyance facilities which are designed to carry run-off from more than one parcel, existing or proposed, shall meet the requirements of these regulations.
- (b) All stormwater conveyance facility design calculations shall be certified by a registered professional engineer and submitted to the City as part of the Stormwater Management Report outlined in Section 1021 of this Code Division.
- (c) Methods to calculate stormwater flows shall be in accordance with the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual.
- (d) Runoff curve numbers used for the SCS Method shall be consistent with those shown in the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual.

1016.02 Piped Collection System Design Criteria.

- (a) The preliminary design (initial pipe sizing and profile design) of piped collection systems required under Section 1016.01(a) herein shall be based upon conveyance of the peak flows associated with a fully developed 25 -year storm with the hydraulic grade line (HGL) being one foot or more below the top of each structure, gutter line or proposed final ground surface elevation, whichever is lowest.
- (b) Once the preliminary design of a piped collection system has been prepared, it shall be analyzed for its behavior during conditions of 100-year flow, with the objective of this analysis being to ascertain the quantities of flow and flow paths followed by flows exceeding the capacity of the system, whether these pond at inlets or flow along the ground's surface.
- (c) Based on the analysis of 100-year conditions, the preliminary design shall be revised where necessary to produce a final design for which the likelihood of dwelling flooding, major property damage, or substantial public access and/or utility interruption shall be less than one chance in 100 years.
- (d) The minimum allowable pipe diameter shall be 15 inches.
- (e) Catch basins shall be spaced so that the spread in the street for a 10-year design flow shall not exceed 8 feet, as measured from the face of the curb. Gutter spread calculations shall be submitted to the City for review and approval prior to issuance of a Development Permit.
- (f) Complete flow, velocity, and hydraulic grade line computations, shall be provided for all portions of a piped collection system. Hydraulic grade lines shall be shown on the storm drainage profiles and associated calculations shall be submitted for the 25-year storm with the Development Plans.

1016.03 Culvert Design Criteria.

- (a) Culverts or pipe systems designed to convey water from one side of a public right-of-way to the other shall be designed to pass the fully developed peak flow associated with a 100-year storm with at least 1.5 feet of freeboard between the 100-year ponding elevation and the centerline of the road, without raising the 100-year flood elevation on upstream properties, and in accordance with Floodplain Management Ordinance. Fully developed flows shall be based on the Land Use Plan adopted by the City Council.
- (b) The 100-year ponding limits at and upstream of the culvert shall be shown on the Development Plans and on the Final Plat (if applicable).
- (c) The minimum allowable culvert diameter shall be 18 inches.
- (d) Single barrel or single cell culvert structures should be used whenever feasible, as they are less prone to clogging and require less maintenance than multi-barrel or multi-cell structures.
- (e) The maximum velocity in a corrugated metal culvert for the 100-year flow shall be 15 fps (feet per second). Velocities over 10 fps in a pipe of any material shall be considered a special design, with particular attention required to pipe or structure invert protection and to fill slope, stream bed, and stream bank stability being required.
- (f) Culvert design is to be in accordance with the methods contained in the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual, and shall include a thorough analysis of both inlet and outlet control conditions.

1016.04 Energy Dissipation Design for Piped Systems and Culverts.

- (a) The maximum developed condition flow velocity at the project site's downstream property line adjoining another property shall not exceed the maximum pre-developed condition's velocity. Calculations may be required to support this velocity standard on a case-by-case basis.
- (b) Energy dissipation devices, such as splash pads, rip-rap, stilling basins, etc., shall be provided at the outlet of every culvert and piped collection system. Velocity protection shall be in accordance with

the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual. Velocities for the fully developed 25-year flow shall not exceed the non-erosive velocity as shown in the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual for the receiving conveyance. Details and all calculations must be submitted with the Development Plans.

- (c) Energy dissipation devices shall be located entirely within the project site, and shall not encroach upon any required buffer.
- (d) When uniform, graded stone rip-rap is used for energy dissipation, ultraviolet resistant filter fabric (200-pound test) shall be used between the stone layers.

1016.05 Discharge of Concentrated Flows.

- (a) The discharge of concentrated flows of stormwater into public roadways shall be avoided. In no case shall such concentrated flows, including flows from swales, ditches, draws, driveways, or piped systems, exceed the allowable peak flow rates.
- (b) In residential subdivisions, the peak flow rate along any property line between lots within 50 feet of the building setback line for either lot shall not exceed two acres, unless contained within a piped drainage system or maintained in a natural watercourse. The stormwater conveyance shall be in a drainage easement.

1016.06 Surface Drainage Design Standards.

- (a) All new proposed channels shall be designed to carry at least the fully developed 25 year storm with freeboard equal to 20% of the design flow depth.
- (b) Transition channels shall be provided at the inlet and outlet ends of all culverts and pipe systems, unless otherwise provided herein.
- (c) The maximum flow velocity at the project site's downstream property line shall not exceed the pre-developed velocity.
- (d) In cases of potential erosion due to irregular channel alignment, extreme velocities, or excessive slopes, a paved ditch may be required. However, if, in the opinion of the City, the expected long-term maintenance of a surface drainage system could prove impractical, a pipe design may be required.
- (e) The cross-sectional shape of channels shall be as found in the Standard Drawings. "V" shaped cross-sections are not permitted in grassed channels.
- (f) If the channel will be affected by backwater from culverts, bridges, other structures or floodplains, backwater curves shall be shown in profiles of the channel.
- (g) All channels, must be capable of conveying flows sufficient to ensure that overflow of the channel would not result in a likelihood of dwelling flooding, property damage or public access and/or utility interruption shall be greater than one chance in 100 years.
- (h) Channels shall be designed to carry the fully developed 25-year flow in accordance with the Georgia Stormwater Management Manual.

1016.07 Surface Drainage Construction Standards

- (a) The channel shall be shaped to the dimensions specified on the approved plans and shall be free of overfalls, gullies, or other irregularities.
- (b) Channels in fills shall be lined.
- (c) Protective cover in grassed channels shall be installed immediately after the earthwork is completed.

DIVISION IV. POST-DEVELOPMENT STORMWATER MANAGEMENT**Section 1017. Purpose and Intent**

The purpose of this article 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 of Duluth is required to 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.

Section 1018. Standards Incorporated by Reference and Adoption and Implementation of the GSMM; Conflicts and Inconsistencies.**1018.01 Standards Incorporated by Reference.**

The latest edition of the Georgia Stormwater Management Manual or Gwinnett County's approved equivalent stormwater management design manual, including any relevant local addenda to these manuals, will be utilized as policy, criteria, and information for the proper implementation of the requirements of this code, including technical specifications and standards. These manuals may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience."

The latest edition of the Standard Specifications Construction of Transportation Systems by the Georgia Department of Transportation, including any relevant local addenda to these standards, is hereby incorporated by reference into Division V of this Development Code.

1018.02 Adoption and Implementation of the GSMM; Conflicts and Inconsistencies.

- (a) In implementing this Article, the City of Duluth shall 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 Article 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 of Duluth's MS4 permit and this Article, the provision from the MS4 permit shall control. In the event of any conflict or inconsistency between any provision of this Article and the GSMM, the provision from this Article shall control. In the event of any other conflict or inconsistency between any provision of this Article 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 shall control.
- (c) If any provision of this Article is invalidated by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this Article.

Section 1019. Definitions.

For this Article, the terms below shall have the following meanings:

"administrator" means the person appointed to administer and implement this Article on Post-Construction Stormwater Management for New Development and Redevelopment in accordance with Section 1020.

"applicant" means a person submitting a land development application for approval.

- “BMP” or “best management practice” means 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” means 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 shall include a layout of plants and plant names (local and scientific).
- “channel” means a natural or artificial watercourse with a definite bed and banks that conveys continuously or periodically flowing water.
- “construction sequencing plan” means a document noting the sequence of construction and identification of infiltration zones for protection during staged installation of permanent post-construction BMPs to ensure suitable site conditions such as avoiding soil compaction by heavy equipment in areas designated for infiltration BMPs.
- “detention” means the temporary storage of stormwater runoff in a stormwater detention facility for the purpose of controlling the peak discharge.
- “detention facility” means a structure designed for the storage and gradual release of stormwater runoff at controlled rates.
- “development” means new development or redevelopment.
- “extended detention” means the storage of stormwater runoff for an extended period of time.
- “extreme flood protection” means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.
- “flooding” means a volume of surface water that exceeds the banks or walls of a BMP, or channel; and overflows onto adjacent lands.
- “GSMM” means the latest edition of the Georgia Stormwater Management Manual, Volume 2: Technical Handbook, and its Appendices.
- “hotspot” means 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 administrator, 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” means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into the soil.
- “Industrial Stormwater General Permit” means 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” means the process of percolating stormwater runoff into the subsoil. “inspection and maintenance agreement” means 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” means the application for a land development permit on a form provided by City of Duluth along with the supporting documentation required in 1003.02(a).
- “land development permit” means the authorization necessary to begin construction-related, land-disturbing activity.

“land disturbing activity” means 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 O.C.G.A. 12-7-17(5) or silvicultural land management activities as described O.C.G.A. 12-7-17(6) within areas zoned for these activities.

“linear feasibility program” means a feasibility program developed by the City of Duluth 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 constructed by the City of Duluth is infeasible.

“linear transportation projects” means construction projects on traveled ways including but not limited to roads, sidewalks, multi-use paths and trails, and airport runways and taxiways.

“MS4 Permit” means the NPDES permit issued by Georgia Environmental Protection Division for discharges from the City of Duluth’s municipal separate storm sewer system.

“new development” means land disturbing activities, structural development (construction, installation or expansion of a building or other structure), and/or creation of impervious surfaces on a previously undeveloped site.

“nonpoint source pollution” means 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” means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain).

“owner” means 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.

“person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

“post-construction stormwater management” means 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” means the conditions anticipated to exist on site immediately after completion of the proposed development.

“practicability policy” means the latest edition of the Metropolitan North Georgia Water Planning District’s Policy on Practicability Analysis for Runoff Reduction.

“pre-development” means 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 shall establish pre-development conditions.

“pre-development hydrology” means (a) 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 (b) 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” means a site that has been altered by paving, construction, and/or land disturbing activity.

“redevelopment” means 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” means activities to keep an impervious surface as near as possible to its constructed 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” means stormwater runoff.

“site” means 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” means 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” means a plan for post-construction stormwater management at the site that meets the requirements of Section 1022(d) and is included as part of the land development application.

“stormwater management standards” means those standards set forth in Section 1021. “stormwater management system” means 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” means flow on the surface of the ground, resulting from precipitation.

“subdivision” means 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.

Other terms used but not defined in this Article shall be interpreted based on how such terms are defined and used in the GSMM and the City of Duluth’s MS4 permit.

Section 1020. Designation of Administrator, Applicability Criteria for Stormwater Management Standards, and Exemptions from Stormwater Management Standards.

1020.01 Designation of Administrator.

The City Manager may from time to time appoint someone to administer and implement this Article.

1020.02 Applicability Criteria for Stormwater Management Standards.

This Article 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 1 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 1 acre or more;
- (c) New development and redevelopment if
- (d) such new development or redevelopment is part of a subdivision or other common plan of development, and
- (e) 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;
- (f) Any commercial or industrial new development or redevelopment, regardless of size, that is a hotspot land use as defined in this Article; and
- (g) Linear transportation projects that exceed the threshold in (a) or (b) above.

1020.03 Exemptions from Stormwater Management Standards.

This Article 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 administrator;
- (e) Agricultural practices as described 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 [Y]-5 (a) or (b);
- (f) Silvicultural land management activities as described 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 [Y]-5 (a) or (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 constructed by the City of Duluth to the extent the administrator 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 of Duluth's linear feasibility program shall first be submitted to the

administrator that contains adequate documentation to support the evaluation for the applicable portion(s) and any resulting infeasibility determination, if any, by the administrator.

Section 1021. Stormwater Management Standards.

Subject to the applicability criteria in Section 1020.02 and exemptions in Section 1020.03, 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 shall be in accordance with the applicable sections of the GSMM as directed by the administrator. Any design which proposes a dam shall comply with the Georgia Safe Dams Act and Rules for Dam Safety as applicable.
- (b) **Natural Resources Inventory:** Site reconnaissance and surveying techniques shall 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, shall 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, flood-plains, 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 shall 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 shall be provided by using the following:
 - 1. For development with a stormwater management plan, the applicant shall choose (A) Runoff Reduction and additional water quality shall 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 shall 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 shall be designed to retain the first 1.0 inch of rainfall on the site using runoff reduction methods, to the maximum extent practicable.

- b. Water Quality – The stormwater management system shall 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.
 - 2. If a site is determined to be a hotspot as detailed in Section 1020.02, the City of Duluth may require the use of specific or additional components for the stormwater management system to address pollutants of concern generated by that site.
- (c) Stream Channel Protection: Stream channel protection shall be provided by using all of the following three approaches:
 - 1. 24-hour extended detention storage of the 1-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 shall 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 shall 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 shall 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) Stormwater Management System Inspection and Maintenance: The components of the stormwater management system that will not be dedicated to and accepted by the City of Duluth, including all drainage facilities, best management practices, credited conservation spaces, and conveyance systems, shall 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 plan shall be written in accordance with the requirements in Section 1024.02.

Section 1022. Pre-Submittal Meeting, Stormwater Concept Plan, and Stormwater Management Plan Requirements.

- (a) Before a land development permit application is submitted, an applicant may request a pre-submittal meeting with the City of Duluth. 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 of Duluth when applying for a Determination of Infeasibility through the Practicability Policy.

- (b) The stormwater concept plan shall be prepared using the minimum following steps:
 - 1. Develop the site layout using better site design techniques, as applicable (GSMM Section 2.3).
 - 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 shall 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" = 50'), which illustrate at a minimum:
 - (i) Existing and proposed topography (minimum of 2-foot contours),
 - (ii) Perennial and intermittent streams,
 - (iii) Mapping of predominant soils from USDA soil surveys,
 - (iv) Boundaries of existing predominant vegetation and proposed limits of clearing and grading,
 - (v) 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.),
 - (vi) Location of existing and proposed roads, buildings, parking areas and other impervious surfaces,
 - (vii) Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements,
 - (viii) Preliminary estimates of unified stormwater sizing criteria requirements,
 - (ix) Preliminary selection and location, size, and limits of disturbance of proposed BMPs,
 - (x) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains,
 - (xi) Flow paths,
 - (xii) 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
 - (xiii) Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings.
- (d) The stormwater management plan shall 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. Items (iii), (iv), (v), and (vi) shall 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)
12. Construction Sequencing Plan

(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

Section 1023. Application Fee, Application Procedures, and Compliance with the Approved Stormwater Management Plan.

1023.01 Application Fee.

The fee for review of any land development application shall be based on the fee structure established by the City of Duluth, and payment shall be made before the issuance of any land disturbance permit or building permit for the development.

1023.02 Application Procedures.

Land development applications are handled as part of the process to obtain the land disturbance permit pursuant to the Duluth Unified Development Code or building permit pursuant the Duluth Building Code, as applicable. Before any person begins development on a site, the owner of the site shall first obtain approval in accordance with the following procedure:

- (a) File a land development application with the City of Duluth on the City of Duluth's form of application with the following supporting materials:
 - a. The stormwater management plan prepared in accordance with Section 1022(d),
 1. A certification that the development will be preformed in accordance with the stormwater management plan once approved,

2. A Preliminary Determination of Infeasibility, as applicable, prepared in accordance with the practicality policy, and
 3. An acknowledgment that the applicant has reviewed the City of Duluth's form of inspection and maintenance agreement and that applicant agrees to sign and record such inspection and maintenance agreement before the final inspection.
- (2) The administrator shall inform the applicant whether the application and supporting materials are approved or disapproved.
 - (3) If the application or supporting materials are disapproved, the administrator shall 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 administrator to again consider and either approve or disapprove.
 - (4) If the application and supporting materials are approved, the City of Duluth 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.

1023.03 Compliance with the Approved Stormwater Management Plan.

All development shall 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.
 - (1) No changes may be made to an approved stormwater management plan without review and advanced written approval by the administrator.

1023.04 Inspections to Ensure Plan Compliance During Construction.

Periodic inspections of the stormwater management system during construction shall be conducted by the staff of the City of Duluth or conducted and certified by a professional engineer who has been approved by the City of Duluth. Inspections shall use the approved stormwater management plan and the construction sequencing plan for establishing compliance. All inspections shall be documented with written reports that contain the following information:

- (a) The date and location of the inspection;
 - (1) Whether the stormwater management system is in compliance with the approved stormwater management plan;
 - (2) Variations from the approved stormwater management plan; and
 - (3) Any other variations or violations of the conditions of the approved stormwater management plan.

1023.05 Final Inspection; As-Built Drawings; Delivery of Inspection and Maintenance Agreement.

Upon completion of the development, the applicant is responsible for:

- (b) Certifying that the stormwater management system is functioning properly and was constructed in conformance with the approved stormwater management plan and associated hydrologic analysis,
 - (1) Submitting as-built drawings showing the final design specifications for all components of the stormwater management system as certified by a professional engineer,

- (2) Certifying that the landscaping is established and installed in conformance with the BMP landscaping plan, and
- (3) Delivering to the City of Duluth a signed inspection and maintenance agreement that has been recorded by the owner in the property record for all parcel(s) that make up the site.

The required certification under part (a) shall 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 shall be performed by a qualified person and submitted to the City of Duluth with the request for a final inspection. The City of Duluth shall perform a final inspection with applicant to confirm applicant has fulfilled these responsibilities.

1023.06 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 shall constitute and be addressed as violations of, or failures to comply with, the underlying land disturbance permit pursuant to the Duluth Unified Development Code or the underlying building permit pursuant to the Duluth Building Code. To address a violation of this Article, the City of Duluth shall 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 as set forth in the applicable ordinances for such permits.

Section 1024. Ongoing Inspection and Maintenance of Stormwater Facilities and Practices.

1024.01 Maintenance by Owner of Stormwater Management Systems Predating Current GSMM.

For any stormwater management systems approved and built based on requirements predating the current GSMM and that is not otherwise subject to an inspection and maintenance agreement, such stormwater management systems shall be maintained by the owner so that the stormwater management systems perform as they were originally designed.

1024.02 Inspection and Maintenance Agreements.

- (a) The owner shall execute an inspection and maintenance agreement with the the City of Duluth 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 shall be the form provided by the City of Duluth. After the inspection and maintenance agreement has been signed by the owner and the City of Duluth, the owner shall promptly record such agreement at the owner's cost in the property record for all parcel(s) that make up the site.
- (b) The inspection and maintenance agreement shall 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 shall update the point of contact from time to time as needed and upon request by the City of Duluth. Upon any sale or transfer of the site, the new owner shall notify the City of Duluth in writing within 30 days of the name or official title of 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 shall, following 30 days' notice, constitute a failure to maintain the stormwater management system.
- (c) The inspection and maintenance agreement shall 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 shall record and provide written notice and a copy of such assignment agreement to the City of Duluth.

- (2) In the absence of a recorded assignment agreement, all owners of the site shall be jointly and severally liable for all obligations under the inspection and maintenance agreement regardless of what portion of the site they own.

1024.03 Right of Entry for Maintenance Inspections.

The terms of the inspection and maintenance agreement shall provide for the City of Duluth'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 of Duluth shall have the right to enter and make inspections pursuant to the City of Duluth's general provisions for property maintenance inspections pursuant to the City of Duluth Municipal Code.

1024.04 Owner's Failure to Maintain the Stormwater Management System.

The terms of the inspection and maintenance agreement shall provide for what constitutes a failure to maintain a stormwater management system and the enforcement options available to the City of Duluth. 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:

- (b) An owner's failure to maintain the stormwater management system so that it performs as it was originally designed shall constitute and be addressed as a violation of, or failure to comply with, owner's property maintenance obligations pursuant to the Duluth Municipal Code and
 - (1) To address such a failure to maintain the stormwater management system, the City of Duluth shall 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.

DIVISION V. ILLICIT DISCHARGE AND ILLEGAL CONNECTION

Section 1025. Purpose and Intent.

- (a) The purpose of this Division VI of this Article is to protect the public health, safety, environment and general welfare through: the regulation of non-stormwater discharges to the city separate storm sewer system to the maximum extent practicable as required by federal and state law; establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment; and establishing methods for controlling the introduction of non-stormwater discharges into the city separate storm sewer system in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. It has been determined that proper management of post-development 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.
- (b) The objectives of Division VI of this Article are to:
 - (1) Comply with all state department of natural resources (DNR) and federal Environmental Protection Agency (EPA) stormwater regulations developed pursuant to the Clean Water Act;
 - (2) Prohibit illicit discharges and illegal connections to the city separate storm sewer system;
 - (3) Prevent non-stormwater discharges, generated as a result of spills, inappropriate dumping or disposal, to the city separate storm sewer system;

- (4) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
- (5) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
- (6) Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
- (7) Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as the preservation of greenspace and other conservation areas, to the maximum extent practicable; and
- (8) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this Code Division.

Section 1026. Definitions Related to Illicit Discharge and Illegal Connection.

For the purposes of Division VI of this Article, the following terms, phrases and words, and their derivatives, shall have the meaning given herein:

Accidental discharge. A discharge prohibited by this article that occurs by chance and without planning or thought prior to 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.

Conveyance. An aboveground or underground natural or manmade drainage feature, that provides for the collection and movement of stormwater, and shall include but not be limited to concrete or metal pipes, ditches, depressions, swales, roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, drainage channels, reservoirs, rights-of-way, storm drains, culverts, street gutters, oil/water separators, modular pavements and other similar drainage structures.

City Separate Storm Sewer System. Any conveyance or system of conveyances which is:

Owned or maintained by the City;

Not a combined sewer; and

Not part of a publicly owned treatment works.

Department. Unless otherwise specified, the city department responsible for stormwater management activities and implementation of the provisions of this article.

Director. Either the director of the city department responsible for stormwater management activities and implementation of the provisions of this article or any of that person's duly authorized representatives.

Discharge. The direct or indirect release of water, fluid, materials or other matter to a conveyance or surface that drains to a conveyance.

Illicit Discharge. Any direct or indirect non-stormwater discharge to the city separate storm sewer system.

Illegal Connection. Shall mean any of the following:

Any pipe, open channel, drain or other conduit, whether natural or manmade, which is used exclusively to drain a non-stormwater discharge to the City's separate storm sewer system; or

Any pipe, open channel, drain or other conduit, whether natural or manmade, that was designed, installed or redirected for the purpose of draining a non-stormwater discharge into the City's separate storm sewer system; or

Any pipe, open channel, drain or other conduit, whether natural or manmade, which is connected to the city separate storm sewer system and which has not been documented in plans, maps, or equivalent records and approved by the city regardless of whether such pipe, open channel, drain or other conduit, whether natural or manmade, was permissible under law or practices applicable or prevailing at the time the connection was made, or has been previously allowed, permitted, or approved by the city or any other authorized enforcement agency. "Illegal connection" expressly includes, without limitation, those connections made in the past.

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 state 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.

Non-stormwater. Any surface flow, runoff, drainage, or discharge that is not composed entirely of stormwater and which may include pollutants, but that excludes:

Water from those sources described in section 3.1(2)(a) and 3.1.(2)(b) of this article; and /or

Any discharge permitted under 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 city separate storm sewer system.

Person. Shall mean, except to the extent exempted from this article, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, city or other political subdivision of the state, any interstate body or any other legal entity.

Pollutant. Shall mean anything that 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; process waste water and wash water; 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 manmade or man-induced alteration of the chemical, physical, biological, thermal and radiological integrity of water.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Procedure. Shall mean a procedure adopted by the department, by and through the director, to implement a regulation or regulations adopted under this article, or to carry out other responsibilities as may be required by this Code or other codes, ordinances or resolutions of the city or other agencies.

State Waters. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single person.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, but which also includes:

- (b) Water from those sources described in section 3.1(2)(a) and 3.1(2)(b) of this Code; and /or
- (c) Any discharge permitted under 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 city separate storm sewer system.

Stormwater Management Design Manual. The most recent version of the Gwinnett County, Georgia Stormwater Design Manual.

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.

Stormwater Variance. The modification of the minimum stormwater requirements for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this Code Division.

Section 1027. Applicability.

Division VI of this Article shall apply throughout the incorporated area of the City of Duluth. The City may enter into agreements other municipalities, to carry out the purpose of this Code Division. 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.

Section 1028. Illicit Non-Stormwater Discharge and Illicit Connection.

1028.01 Prohibitions.

- (a) Prohibition of Illicit Discharges.
 - (1) It shall be a violation of this Code Division for any person to throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the city separate storm sewer system anything other than stormwater.
 - (2) Discharges from the following sources are exempt from the prohibition provision in subsection (1) above:
 - a. Water line flushing performed by a government agency, other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, 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.
 - b. Discharges or flows from fire fighting, and other discharges specified in writing by the City as being necessary to protect public health and safety.

(b) Prohibition of Illegal Connections.

- (1) It shall be a violation of this Code Division for any person to construct, connect, use, maintain, or suffer or allow the continued existence of any illegal connection to the city separate storm sewer system.
- (2) Illegal connections must be disconnected. The department may require that illegal connections be disconnected and redirected if necessary, to an approved on-site sewage management system or the sanitary sewer system. Such redirected connections must be approved by the agency responsible for administering and operating those systems.
- (3) The department may require any underground or above ground pipe, drain or other conduit, that has not been documented in plans, maps or equivalent, and which may be connected to the city's separate storm sewer system, to be located by the owner or occupant of that property upon receipt of written notice from the department. 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 department. Failure to comply with the terms of the written notice mentioned within this subsection shall constitute a violation of this Code Division.

1028.02 Industrial or Construction Activity Discharges.

- (a) Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit.
- (b) Proof of compliance with said permit may be required in a form acceptable to the City prior to allowing discharges to the city separate storm sewer system.

1028.03 Access and Inspection of Properties and Facilities.

- (a) Access and Inspection.
 - (1) 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 shall make the necessary arrangements to allow access to the Director or his designee.
 - (2) The owner or operator shall allow the Director or his designee ready access to all parts of the premises for the purposes of inspection, investigation, observation, monitoring, measurement, recording, enforcement, sampling and testing, photography and videotaping for the purpose of ensuring compliance with the provisions of this article. The owner or operator shall allow the Director or his designee to examine and copy any records that are required under the conditions of an NPDES permit. The Director or his designee shall duly notify the owner of said property or the representative on site, except in the case of an emergency.
 - (3) The Director or his designee shall have the right to set up on any premises, property or facility such devices as are necessary in the opinion of the department to conduct monitoring and/or sampling of discharges.
 - (4) The Director or his designee may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the department. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy. Measurements, tests and

analyses performed shall be completed in accordance with 40 CFR Part 136, unless the Director approves another method.

- (5) Any temporary or permanent obstruction to safe and easy access to the premises, property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director or his designee and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the Director or his designee access to a facility, property or premises shall constitute a violation of this Code Division.
- (7) If the Director or his designee has been refused access to any part of a premises, property or facility from which stormwater is or would likely be discharged, and the Director or his designee is able to demonstrate probable cause to believe that there may be a violation of this Code Division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Code Division or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the department may seek issuance of a search warrant from any court of competent jurisdiction.

(b) Schedule.

The Director or his designee may determine inspection schedules necessary to enforce the provisions of this Code Division.

1028.04 Notification of Accidental Discharges and Spills.

- (a) 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 non-stormwater from that facility or operation which is resulting or may result in a discharge of that non-stormwater into the city separate storm sewer system, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (b) Said person shall notify the department by phone, facsimile or in person within 24 hours of discovering the discharge. Such notification shall detail the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the department within three business days of the phone or in person notice. If the discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill.
- (c) In the event of such a release of hazardous materials, emergency response agencies and/or other appropriate agencies shall be immediately notified.
- (d) Failure to provide notification of a release or discharge as provided above is a violation of this Code Division.

1028.05 Violations, Enforcement and Penalties.

- (a) Violations.
 - (1) It shall be a violation of this Code Division for any person to violate any provision or fail to comply with any of the requirements of this Code Division. Any person, who has violated or continues to violate the provisions of this Code Division, may be subject to the enforcement actions outlined

in this Section 1117. Each day of noncompliance is considered a separate offense. The department may institute appropriate action or proceedings at law or equity for the enforcement of this Code Division. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Nothing herein contained shall prevent the department from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief.

- (2) In the event the violation constitutes an immediate danger to public health or public safety, the department has the right but not the duty, to enter upon the subject private property or premises, without giving prior notice, and take any and all measures necessary to abate the violation and/or restore the property. The department is authorized to seek costs of the abatement as outlined in Section 1107.05.

(b) Notice of Violation.

Whenever the department finds that a violation of this Code Division has occurred, the department may order compliance by written notice of violation.

- (1) The notice of violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure, premises 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 article and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall 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 department by filing a written notice of appeal within 30 days of service of notice of violation.

- (2) Such notice of violation may require without limitation:

- a. The performance of monitoring, analysis, and reporting;
- b. The elimination of illicit discharges and illegal connections;
- c. That violations of this article shall cease and desist;
- d. The abatement of non-stormwater discharges, the remediation of land or the effects of pollution, and the restoration of any affected property to its unaffected condition;
- e. Payment of costs to cover administrative and abatement costs; and,
- f. The implementation of pollution prevention practices; and
- g. The development and provision to the department of written remediation or action plan's; and
- h. The development and provision to the department of documents showing the location and discharge points of conveyances, pipes, channels, or drains; and
- i. Any other actions that will lead to the remedy of a condition of violation of this Code Division.

(c) **Appeal of Notice of Violation.**

Any person receiving a notice of violation may appeal the determination of the Director or his designee. The notice of appeal must be received by the department within 30 days from the date of the notice of violation. Hearing on the appeal before the Director shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the Director shall be final.

1028.06 Enforcement Measures.

- (a) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation or, in the event of an appeal, within three days of the decision of the Director upholding the decision of the Director or his designee, then, in addition to any other remedies that may be available, representatives of the department or its contractors may enter upon the subject private premises, property or facility, where they are then authorized to take any and all actions or measures necessary to abate the violation and/or restore the property. Such measures or actions shall include but not be limited to repairs, maintenance, containment, cleanup and remediation.
- (b) It shall be a violation of this Code Division for any person, owner, agent or person in possession of any premises, property or facility to refuse to allow the department or designated contractor to enter upon the premises for the purposes set forth in Section 1117.04(a).

1028.07 Costs of Abatement of the Violation.

Within ten working days after abatement of the violation by the department 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 protest 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 shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this Code Division shall become liable to the City by reason of such violation.

1028.08 Criminal Penalties.

For violations of this Code Division, the department may issue a citation to the alleged violator requiring such person to appear in a court of competent jurisdiction to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$2,500.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

1028.09 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 Code Division 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.

1028.10 Remedies Not Exclusive.

- (a) The remedies listed in this Code Division are not exclusive of any other remedies available under any applicable federal, state or local law and the department may seek cumulative remedies.
- (b) The department may recover attorney's fees, court costs, and other expenses associated with enforcement of this Code Division, 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 shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

1028.11 Waiver Circumstances.**(a) Standards for Approval.**

The Director or his designee may grant a waiver from the requirements of this Code Division if exceptional circumstances applicable to a site or premises exist such that strict adherence to the provisions of this Code Division will result in unnecessary hardship and will not fulfill the intent of the Code Division. Specifically, such waivers may be granted in such individual cases of unnecessary hardship upon a finding by the Director or his designee that:

- (1) There are extraordinary and exceptional conditions pertaining to the particular site in question; and
- (2) The waiver is the minimum necessary, considering the impact on upstream and downstream properties; and
- (3) The application of the Code Division to this particular site would create an unnecessary hardship; and
- (4) Such conditions are peculiar to the particular site involved; and
- (5) Such conditions are not the result of any actions of the site owner; and
- (6) Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Code Division; and
- (7) No variance may be granted for a site for any discharge that is prohibited by this Code Division or which would result in a deterioration of quality of stormwater from a site greater than would otherwise be allowed if no variance were involved.

(b) Waiver Procedures.

- (1) A written request for a waiver shall be required and shall state the specific waiver sought and the reasons, with supporting data, that a waiver should be granted. The request shall include all information necessary to evaluate the proposed waiver.
- (2) The Director or his designee will conduct a review of the request for a waiver within 30 working days of receiving the request.

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Article 11. Procedures and Permits

Article 11 describes the process through which a rezoning or special use may be approved on a property, the approval process for construction of subdivisions and other land development projects, and the approval process for other permits required by this Development Code.

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Article 11. Procedures and Permits

Section 1101. Overview—Zoning and Land Development.

1101.01 Application Intake and Processing.

An application for any permit or approval under this Article or for a hardship variance or special exception variance under the Appeals Article of this Development Code will first be considered as follows:

- (a) If the application is for a project that qualifies as a Development of Regional Impact (DRI), and is the first request for City action or is a revision to a previous DRI, refer to Section 1123 of this Article for details and procedures.
- (b) If the application is for approval of an exception plat for a minor subdivision, refer to 1101.03(b).
- (c) If the application is for any other type of approval or permit, refer to the appropriate Divisions and Sections of this Article or the Appeals Article for procedures pertinent to the request.

1101.02 Zoning Changes (Rezoning or Special Use Approval).

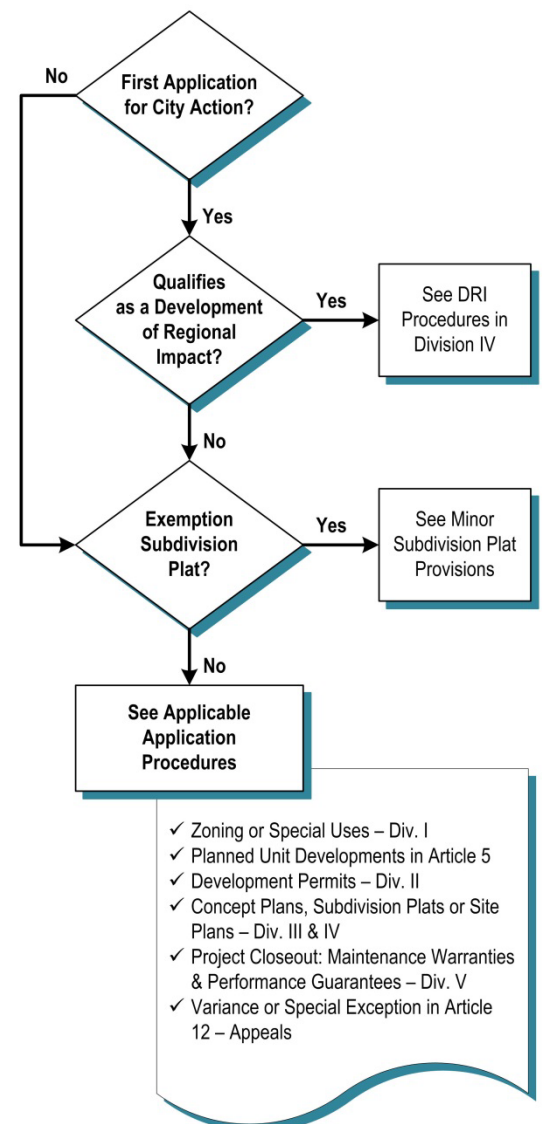
- (a) If a proposed use is not allowed by right under the existing zoning on a property, a request for an amendment to the Official Zoning Map (often called a “rezoning”) or approval of a Special Use must be approved prior to development, construction, or occupancy.
- (b) See Article 2 of this Development Code for a list of all uses allowed by right or by Special Use approval in each zoning district.
- (c) A zoning change for approval of a subdivision, multi-family, or nonresidential project must include a subdivision sketch plan, preliminary site development plan, or PUD master concept plan, as applicable, showing the proposed layout of the project.

1101.03 Subdivisions.

Permitting and construction of a major or exemption subdivision will be conducted generally as described in the following Section.

- (a) Major Subdivisions.
 - (1) The approval of a Concept Plan for a subdivision, if desired by the developer, al-

Application Intake Process



allows a property to be developed in smaller portions within the context of the plan for the entire property. Approval of a Concept Plan also allows early issuance of a clearing or a clearing and grubbing permit for an appropriate portion of the subdivision.

- (2) A Development Permit is issued by the Planning and Development Director based on review and approval of a Preliminary Subdivision Plat and other development plans for construction of the subdivision.
 - (3) Receipt and approval by the Planning and Development Department (for street improvements, landscaping, and drainage) and the Gwinnett County Department of Planning and Development (for water and sewer) of accurate descriptions of the as-built condition of public improvements is required in order to allow approval of a Certificate of Development Conformance by the Planning and Development Director.
 - (4) An executed Development Performance and Maintenance Agreement, with appropriate maintenance warranty and performance guarantee documents attached, is received and approved by the Planning and Development Director.
 - (5) Deeds and easement dedications, as applicable, for all public rights-of-way and other lands or facilities to be dedicated to the City of Duluth, and all improvement warranty and guarantee documents, are forwarded to the City Council for acceptance.
 - (6) Approval of a Final Subdivision Plat by the Planning and Development Director will authorize recordation of the plat with the Clerk of the Gwinnett County Superior Court.
 - (7) After recordation of the Final Plat, the lots may be sold, and building permits and driveway permits on the lots may be obtained.
 - (8) Any final improvements deferred under a Performance Agreement must be completed and inspection approval obtained from the Planning and Development Department before the maintenance period begins.
 - (9) At the end of the maintenance period, all public improvements will be inspected by the Planning and Development Department. After the developer has made any required repairs, the maintenance surety will be released by the City and the public improvements will be accepted into perpetual maintenance.
- (b) Minor Subdivisions.

Approval of a minor subdivision, when required by Article 5, is accomplished through approval and recording of an exemption subdivision plat, as follows:

- (1) Deeds and easement agreements, as applicable, for all public rights-of-way, easements and other lands or facilities to be dedicated to the City of Duluth are received by the Director of Planning and Development and forwarded to the City Council for acceptance.
- (2) Approval of a Final Subdivision Plat for the exemption subdivision by the Planning and Development Director will authorize recordation of the plat with the Clerk of the Superior Court.
- (3) After recordation of the Final Plat, the lots may be sold, and building permits and driveway permits on the lots may be obtained.

1101.04 Multi-family and Nonresidential Projects.

- (a) The approval of a Concept Plan for a multi-family or nonresidential project allows a property to be developed in smaller portions within the context of the plan for the entire property. Approval of a Concept Plan also allows early issuance of a clearing, a clearing and grubbing or a grading permit for an appropriate portion of the project.
- (b) A Development Permit is issued by the Planning and Development Director based on review and approval of a Site Plan and other development plans for construction of the project.
- (c) A Building Permit is issued by the Planning and Development Director based on review and approval of architectural plans. Buildings falling under the authority of the State Fire Marshal shall be approved by the Fire Marshal prior to issuance of the building permit.
- (d) Driveway and sign permits are issued by the Planning and Development Department.
- (e) Receipt and approval by the Planning and Development Director (for street improvements, landscaping and drainage) and the Gwinnett County Department of Planning and Development (for water and sewer) of accurate descriptions of the as-built condition of public improvements is required in order to authorize issuance of a Certificate of Occupancy.
- (f) An executed Development Performance and Maintenance Agreement, with appropriate maintenance warranty and performance guarantee documents attached, along with a warranty for landscaping materials, is received and approved by the Planning and Development Director.
- (g) Acceptance of dedication deeds, easement agreements and improvement guarantees, if any, by the City Council is also required.
- (h) Permanent electric power and occupancy of the building is authorized by the Planning and Development Director based on final inspection and issuance of a Certificate of Occupancy.
- (i) At the end of the maintenance period, all public improvements will be inspected by the Planning and Development Department. After the developer has made any required repairs, the maintenance surety will be released by the City and the public improvements will be accepted into perpetual maintenance.

DIVISION I. ZONING AND SPECIAL USES.**Section 1102. Zoning and Special Uses, in General.****1102.01 Authority.**

- (a) The “City of Duluth Official Zoning Map” may be amended from time to time by the City Council, but no map amendment (i.e., rezoning) or special use approval shall become effective unless it shall have been first submitted to the Planning Commission for review and recommendation.
- (b) Procedures for approval of special exceptions and variances are found in Article 13, Appeals.
- (c) Amendments to the text of this Development Code can only be initiated by the City Council and are addressed in Article 14, Administration.

1102.02 Initiation of Map Amendments and Special Use Approvals.

- (a) A change in the zoning classification of a property by amending the Official Zoning Map, or a request for a special use on a property may be initiated by the owner of the property or the own-

er's authorized representative by filing an application with the Planning and Development Department.

- (b) A change in the zoning of a property or consideration of a special use on a property may be initiated by the City Council on its own motion or at the request of any of the following: the Planning and Development Director, the Planning Commission, or the owner of a property due to extraordinary circumstances.
- (c) A general amendment to the Official Zoning Map involving some, many or all properties in the city may be initiated by the City Council on its own motion or at the request of the Planning and Development Director or the Planning Commission.

Section 1103. Zoning or Special Use Approval Process.

1103.01 Filing of Applications.

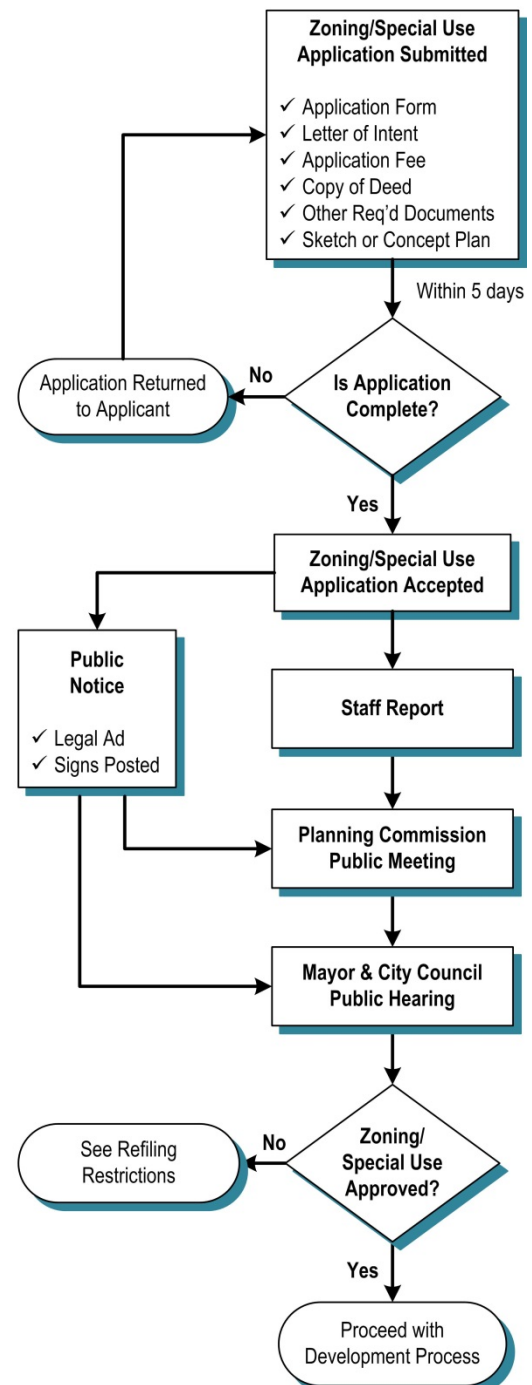
All proposed map amendments and special use applications shall be submitted to the office of the Planning and Development Department in accordance with the schedule set by the Department.

1103.02 Pre-Application Conference.

- (a) Prior to the filing of a rezoning or special use application, the owner or his representative is encouraged but not required to schedule a Pre-Application Conference with the Planning and Development Department Staff to review the feasibility of the proposed project in terms of its consistency with the land use plan, surrounding uses and zonings, and the adequacy of existing or public planned facilities. The owner is to provide the following information for consideration at this conference:
 - (1) A sketch plan showing the location and acreage of the project and the proposed layout of the streets and uses in relation to existing natural and man-made conditions. This plan may be a free-hand sketch made on a copy of a topographic map.
 - (2) Proposed uses.
 - (3) Identification of proposed method of water supply and sewage disposal.
- (b) Following the pre-application conference, the owner may file a rezoning or special use appli-

Zoning or Special Use Approval Process

Application Submitted by Property Owner



cation, as appropriate, and supporting materials as outlined in this Division.

1103.03 Planning Commission Meeting.

- (a) The Planning Commission shall hold a public meeting to consider the application after adequate public notice of the meeting has been given.
- (b) The City shall give notice of such public meeting and the application to be considered by providing notice of the meeting in the same manner as required for public hearings under Section 1103.04.
- (c) After hearing comments from all interested parties, the Planning Commission shall have 30 days within which to submit its recommendation, unless extended upon request of the applicant and the approval of the Planning Commission. If the Planning Commission fails to submit a recommendation within the specified period, the City Council may vote to proceed with a Public Hearing on the application without a recommendation from the Planning Commission.

1103.04 City Council Public Hearing; Notice.

- (a) Subsequent to the Planning Commission's review, or subsequent to the City Council's decision to proceed without a recommendation, the City Clerk shall arrange a suitable hearing date for the City Council to consider the application.
- (b) Public Hearing Notice.

A notice of time and place of the hearing shall be published at least 15 days, but not more than 45 days, prior to said public hearing in the official legal organ of the City of Duluth or another newspaper of general circulation within the territorial boundaries of the city. The notice shall state the time, place and purpose of the hearing in accordance with O.C.G.A. §36-66-4. If the proposed amendment is a rezoning of property or special use initiated by a party other than the City Council, then:

- (1) The published notice, in addition to the foregoing, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and,
- (2) A sign or signs containing that same information shall be placed on the property by the Planning and Development Department not less than 15 days, nor more than 45 days, prior to the date of the hearing. The sign or signs shall be placed in a conspicuous location on the property frontage in such manner as to be legible from the public road. On lots with more than one road frontage, a sign will be placed facing each public road. If the property has no road frontage, a sign shall be placed at a location on each road where access will be gained to the property.

1103.05 Special Public Hearing; Drug Dependence Treatment Facilities.

The following requirements are adopted as required by the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-4(f)).

- (a) When a proposed map amendment or special use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a special public hearing shall be held on the proposed request. Such special public hearing shall be held at least six months and not more than nine months prior to the date of final action on the application by the City Council. The hearing required by this subsection shall be in addition to the public hearing required under Section 1103.04.

(b) Notice of Special Public Hearing.

- (1) The City shall give notice of such special public hearing by providing notice of the hearing in the same manner as required for public hearings under Section 1103.04.
- (2) Both the posted notice and the published notice shall include a prominent statement that the proposed map amendment or special use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency.
- (3) The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.

Section 1104. Public Hearing Procedures and Standards for Approval.

For purposes of this Section the term “zoning decision” shall have the meanings set forth in O.C.G.A. §36-66-3, covering both map amendments and special use approvals.

1104.01 Public Hearing.

Prior to making any zoning decision, the City Council shall conduct a public hearing. The public hearing shall be called and a public notice provided in accordance with the provisions of Section 1103.04 of this Article and in accordance with the provisions of O.C.G.A. §36-66-4. At any such public hearing, the following procedures shall apply:

- (a) A member of the Planning and Development staff will briefly summarize the requested zoning change and shall respond to any questions from the Mayor or member of the Council regarding the staff recommendations related to the proposed zoning change.
- (b) The applicant shall be provided an opportunity to be heard and may present any evidence, information or materials which the applicant desires for the City Council to consider in arriving at its determination.
- (c) Public comments will be accepted and individuals making public comments may present any evidence, information and/or materials that the individual desires for the City Council to consider in arriving at its determination.
- (d) The City Council may place reasonable time limitations on the presentation of the applicant and on public comments by individuals in support or opposition to the zoning decision. An equal time period be allowed for presentation of data, evidence and opinion by proponents of the zoning decision and by opponents of the zoning decision, and in no event shall the minimum time period allowed for presentation be less than ten minutes per side.
- (e) Persons speaking either in support of or in opposition to a zoning decision having been recognized by the Mayor, shall state their name and address for the public record, and shall present any written documents they desire to be included in the record of the meeting to the City Clerk.
- (f) All comments shall be directed to the Mayor and City Council and shall be made in an orderly manner.
- (g) The applicant and any opponents to the zoning decision shall acquaint themselves with the provisions of Section 3 of the Conflict of Interest in Zoning Actions Law, O.C.G.A. §36-67A regarding disclosure of campaign contributions and shall comply with the provisions of that statute.

1104.02 Standards Governing the Exercise of Zoning Power.

- (a) In exercising the zoning powers granted to the Mayor and City Council by State Law, the City Council shall apply the following standards in making zoning decisions:
 - (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
 - (2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - (3) Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
 - (4) Whether the zoning proposal is consistent with the Land Use Policy Plan, Comprehensive Plan, transportation plans, or other plans adopted for guiding development within the City of Duluth.
 - (5) Whether there are other existing or changing conditions affecting the use and development of property that give supporting grounds for either approval or disapproval of the zoning or special use proposal.
- (b) Standards for review of a Planned Unit Development rezoning, in addition to those enumerated under paragraph (a), above, are found in Article 5 of this Development Code.

1104.03 Conditional Approval.

- (a) In adopting a map amendment or approving a special use, the Planning Commission may recommend and the City Council may impose special conditions which they deem necessary in order to make the requested action acceptable and consistent with the proposed uses of the district(s) involved and to further the goals and objectives of the Comprehensive Plan. Such conditions may consist of: setback requirements from any lot line; specified or prohibited locations for buildings, parking, loading or storage areas or other land uses, driveway curb cut restrictions; maximum provisions; landscaping or planted area which may include the berms, or other buffering provisions or protective measures; measures to alleviate undesirable views, light, glare, noise, dust or odor; permitted hours of operation; architectural style; a requirement that developers must build according to site plans as adopted; a limitation on exterior modifications of existing buildings; and on and off-street traffic improvements necessary to carry traffic generated by the proposed development.
- (b) Such conditions:
 - (1) Shall only be valid if they are included in the motion approving the amendment of adoption.
 - (2) Shall be permanent conditions of approval unless a lesser period of time is specified in the amendment.
 - (3) Shall be required of the property owner and subsequent owners as a condition of their use of the property.
 - (4) Shall be permitted and continuously enforced by the Planning and Development Director in the same manner as any other provision of this Development Code.

1104.04 Change in Conditions of Approval.

Any application that proposes a change in the conditions of approval previously established by the City Council through action on a rezoning or special use shall be considered a new application and therefore subject to all procedures and provisions of this Division I regarding the approval of a map amendment or special use, as applicable.

Section 1105. Special Use Considerations.

- (a) The special use is designed to apply under any one of the following circumstances:
 - (1) A special use listed under the zoning district is desired for development and a more intensive zoning district containing that use, as a use by right would not be appropriate for the property; or
 - (2) A special use listed under the zoning district is desired for development and no zoning district contains that use as a use by right; or
 - (3) A unique use not addressed in any zoning district is desired for development and is not likely to be duplicated within the City of Duluth; or
 - (4) The density of development may be affected by the height of a building; or
 - (5) The neighboring properties may be affected by the height of any structure; or
 - (6) The special use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood and would not be in conflict with the overall objective of the Comprehensive Plan.
- (b) In order to accommodate these particular uses, special use approval allows the City Council to approve such a use on a particular parcel without changing the general zoning district. Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility of the special use with the surrounding properties. All special use applications shall be for firm development proposals only. The special use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. A special use application shall be considered only if the application is made by the owner of the property or by his/her authorized agent. The minimum requirements for a special use approval are:
 - (1) Any uses allowed under special use approval shall also conform to the requirements of this Development Code for all uses as found in the zoning district.
 - (2) The application and review process for a special use shall be the same as for the zoning district under which the special use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the Director in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood.
 - (3) In the approval process for a special use approval application, the City Council shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area, and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic, storm drainage, land values and compatibility of land use activities.

- (4) If an application is approved and a special use approval is granted, all conditions that may have been attached to the approval are binding to the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions.
- (5) Changes to a special use or development of a site for the special use, shall be treated as an amendment to the special use Permit and shall be subject to the same application and review process as a new application.
- (6) An application for special use approval in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
 - a. The special use shall operate within the dwelling on the property or, if approved by the City Council, in an accessory structure.
 - b. The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of a special use to the neighborhood, except for any accessory structure approved by the City Council.
- (7) The owner of the property approved for a special use may voluntarily request termination of the special use by notifying the Director in writing. The Director shall notify the City Council through the Planning Commission of the voluntary termination. The approval of a special use for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the City Council to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the special use by the property owner.
- (8) The Planning and Development Department shall have the right to periodically examine the operation of the specific use to determine compliance with the requirements and any conditions. If the Planning and Development Director determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten days to come into compliance. If after ten days the violations continue to exist, the Director shall forward a report to the City Council through the Planning Commission who may recommend that action be taken to remove the special use from the property.
- (9) Upon approval by the City Council, a special use shall be identified on the official zoning maps.
- (10) Upon approval by the City Council of a special use, the owner of the property shall be issued a notice from the Director that states the specific use permitted, the requirements of this Section and any conditions attached to the approval.
- (11) The Planning and Development Department shall not issue a Certificate of Occupancy for the specific use unless all requirements and conditions of the special use approval have been fulfilled by the owner of the property.

Section 1106. Withdrawal.

Any applicant wishing to withdraw an application prior to final action by the City Council shall file a written request for withdrawal with the Planning and Development Director.

- (a) The withdrawal request must be in writing and signed by the owner, the applicant or the owner's authorized agent.
- (b) If the request for withdrawal is received prior to the publication of notice for the public hearing as required under Section 1103.04, the application shall be withdrawn administratively by the Planning and Development Director.
- (c) If a request for withdrawal of an application is received after notice has been published (or irretrievably set for publication) but before the scheduled Planning Commission public meeting, the application may be withdrawn with the consent of the Planning Commission and removed from further consideration.
- (d) Should any request for withdrawal be made after the public meeting by the Planning Commission, the application shall remain on the City Council agenda and the withdrawal request shall be considered for approval or denial by the City Council. If withdrawal is denied, the City Council will proceed with consideration of the application.

Section 1107. Applications for a Map Amendment or Special Use Approval.

1107.01 Application Form and Documents.

- (a) The proper form on which to file an application for a map amendment or special use approval can be obtained from the Planning and Development Department. The completed application shall be filed with the Planning and Development Department at least 30 days prior to the Planning Commission meeting at which the request will be considered.
- (b) Any transmittal purporting to be an application for a map amendment or special use approval shall be regarded as mere notice of intention to seek an amendment until such time as it is made on the required form provided by the Planning and Development Department and is complete in all respects.
- (c) The Planning and Development Department will review the application for completeness within 10 days of submission. Incomplete applications will be returned to the applicant.
- (d) An application for a map amendment or special use approval shall contain the following in order to be considered complete:
 - (1) A signed and notarized application form including all of the information required to be supplied by the applicant on the form or attached to it. If the owner is a corporation or partnership then provide an executed Certificate of Corporate Resolution (see Section 1131 for an example) authorizing submission of the application.
 - (2) Letter of intent stating the reasons for the rezoning or special use request, a description of the proposal, and addressing each of the standards under Section 1104.02 and Section 1105 (and Article 5 for PUDs) for map amendments or special use approval, as applicable.
 - (3) Payment of fees as set forth in the schedule of fees adopted by the City Council under Article 13 of this Development Code.
 - (4) Copy of the Deed (with legal description) as proof of ownership.
 - (5) If the applicant is not the owner of the property, provide a notarized property owner's authorization for the applicant to act on behalf of the owner on the request (accompanied by an executed certificate of corporate resolution if the owner is a corporation).

- (6) Political contribution disclosure if required under the requirements of O.C.G.A. 36-67A-3 of the Georgia Conflict in Interest in Zoning Actions Law.
- (7) Such plans and other documents required under Section 1107.02.

1107.02 Plans and Other Documents Showing Proposed Use Required.

- (a) An application for a map amendment or special use to create, extend or otherwise alter a CPD-R, R-100, R-75, RM, HC-Auto, HC-Retail, C-1, C-2, CPD-C, O-I, O-N, M-1, M-2 or MH zoning district shall be accompanied by a sketch plan at an approximate scale and such other plans, elevations or additional information as the Planning and Development Director may require, showing the proposed development.
- (b) For a PUD rezoning, the master concept plan map and accompanying development summary report, as described in Article 5 of this Development Code, shall be submitted.
- (c) Upon the receipt of a map amendment or special use application, no building or other permits shall be granted except for uses or structures that conform essentially with the sketch plan and other documents submitted with the application for a map amendment or special use.

1107.03 Sketch Plan Standards.

All applications for a rezoning (other than a PUD) or special use shall be accompanied by a sketch plan of the proposed subdivision or development site prepared and stamped by a registered land surveyor, engineer, architect or landscape architect containing the following information:

- (a) The sketch plan shall be clearly and legibly drawn at a scale of not less than 100 feet to one inch on a sheet size not to exceed 24 inches by 36 inches. The Planning and Development Director may approve other sheet sizes as deemed appropriate.
- (b) The sketch plan shall be drawn on a boundary survey of the property, showing bearings and distances of all property boundary lines, land lot and district lines, known survey monuments, north arrow and scale, surveyor's name and registration number, and date of survey.
- (c) The following information shall be depicted on the sketch plan.
 - (1) Project name.
 - (2) Project owner and address (both local and permanent addresses if different) and telephone and fax number(s).
 - (3) Name and address of person or company preparing the sketch plan.
 - (4) Vicinity map.
 - (5) Proposed use of property.
 - (6) Total acreage.
 - (7) Total number of lots and minimum lot sizes (if applicable).
 - (8) Size, location, and names of adjoining existing streets or access drives and proposed rights-of-ways and roadways.
 - (9) Proposed method of sewerage disposal (express as a note).
 - (10) All contiguous property under the ownership or control of the applicant, except those lands specifically to be excluded by the Department. Areas not planned for development at the time of the submittal shall be shown as "Future Development".

- (11) General development data (in tabular form) for multi-family or non-residential site developments, such as number of residential units, gross square feet of nonresidential buildings, number of parking spaces, etc.
- (12) General development data (in tabular form) for single-family developments, such as minimum lot size, floor area of homes, and all relevant conditions of zoning.
- (13) Any other data requested by the Planning and Development Director necessary for an understanding and evaluation of the project.
- (d) The sketch plan shall show the following physical characteristics as appropriate to the proposed development to an approximate (not engineering) level of accuracy:
 - (1) Location of ingress and egress points, internal roadways and parking areas.
 - (2) Location of 100-year floodplain, lakes, ponds and other watercourses.
 - (3) Dumpster location.
 - (4) Proposed landscaping and tree-save areas.
 - (5) Building heights.
 - (6) The approximate location and arrangement of existing buildings, parking areas and other improvements that are proposed to remain.
 - (7) For multi-family and non-residential developments, the approximate location and arrangement of proposed buildings, parking areas and other improvements including storm-water detention areas and all required buffers.
 - (8) Location of existing and proposed sidewalks.
 - (9) Existing zoning of the property and adjoining properties.
 - (10) Boundaries of the Chattahoochee River Corridor and Chattahoochee River Tributary Protection Areas, if applicable.
- (e) Additional information may be required when proposing a Planned Unit Development - see Article 5 of this Development Code for specifics.

Section 1108. Refiling Restrictions after Denial of an Application.

- (a) If an application for approval of a map amendment or special use on a property is denied by the City Council, an application for the same or any other map amendment or special use on said property may not be accepted by the Planning and Development Department until the expiration of 12 months from the date of action by the City Council on the original application unless the City Council denied the original request without prejudice.
- (b) The City Council may initiate a map amendment or special use approval on property for which an application was previously denied, once the six-month waiting period required by O.C.G.A. §36-66-4.c has lapsed.
- (c) The property owner may request a City Council Initiation, if he or she can demonstrate to the City Council that the proposed rezoning or special use is significantly different from the previously denied application. A significant difference includes, but is not limited to, a change in the requested zoning district, land use, density of development, buffer proposal, or other items which were discussed at public hearing and/or figured into the original denial of the rezoning or special use.

Section 1109. Timely Implementation Required.

Actions to be taken if proposed plans of property owner are not implemented within specified 12 months and found to be inconsistent with the comprehensive plan.

- (a) If a building permit, development permit, certificate of occupancy or preliminary subdivision plat has not been issued or approved within 12 months of the date of approval of a map amendment or special use requested by a property owner and in accordance with the proposed development plans and other submitted documents, and if it is determined that such plans or zoning is inconsistent with the Future Land Use designation of the Comprehensive Plan, then the Planning and Development Director may notify the Planning Commission of the lack of activity on the property.
- (b) The Planning Commission shall review each such situation and report its findings to the City Council.
- (c) In circumstances where the zoning and proposed development is not consistent with the Comprehensive Plan, the Planning Commission may recommend to the City Council that it initiate a rezoning or special use application to change the land to its appropriate zoning district classification or rescind the special use approval in conformance with the Comprehensive Plan Land Use designation.

DIVISION II. PERMITS REQUIRED FOR DEVELOPMENT OR CONSTRUCTION.**Section 1110. Authorization Required for Land Disturbance or Development Activities.****1110.01 Permit Required; Exemptions.**

No disturbance of the land, including clearing, grubbing, or grading activities, shall commence or proceed except in accordance with the provisions of these Development Regulations, unless the activity is exempt as an agricultural activity in the RA-200 zoning district, or is for the construction of an individual single-family detached or duplex residence on a buildable lot of record.

1110.02 Plan Review and Approval.

Any developer of land within the City of Duluth shall first submit to the Planning and Development Department such plans, plats, or construction drawings as may be required by this Development Code and shall have been granted a permit consistent with this Development Code and approved by the Planning and Development Department prior to the initiation of development activities. Approval of plans by the City or employees shall 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. Division III of this Article details the elements of the required plans.

1110.03 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 shall 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 Planning and Development Department or any other agency. All permits issued by the City of Duluth pursuant to such authorization shall be consistent with the requirements and provisions of the Certificate. Any violation of the provisions of the

Metropolitan River Protection Act Certificate shall be considered as though a violation of this Development Code, and shall be subject to the enforcement and penalty provisions hereunder.

1110.04 Proposed Development in Special Flood Hazard Areas.

Any land owner or developer desiring a permit for development activity on a site where an area of special flood hazard is located shall meet the requirements of the Floodplain Management section in Article 8 of this Code.

1110.05 Interdepartmental Review and Approval.

The Planning and Development Department shall 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.

1110.06 Activities Limited to Permit Authorization.

Development activities shall be limited to those as authorized by the applicable permit and as may be further restricted by conditions of approval pertaining thereto attached by the Planning and Development Department or other department or agency as may have authority or jurisdiction over said activities in whole or in part.

1110.07 Developer's Responsibility for Compliance.

No permit shall 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 of Duluth 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 of Duluth shall be considered to have been null and void upon its issuance.

Section 1111. Land Disturbance Permits.

1111.01 Clearing Permit, Clearing and Grubbing Permit, and Grading Permit.

The following permits covering portions of the land development process may be issued in accordance with the requirements of this Development Code and the provisions of any Metropolitan River Protection Act Certificate, if applicable:

(a) Clearing Permit.

- (1) A permit limited to clearing only with no grubbing or other land disturbance (as defined in the Georgia Soil Erosion, Sedimentation and Pollution Control Act) may be issued upon identification of the property, the limits of the area to be cleared and the type of activities to be undertaken, and approval of a Tree Protection/Replacement Plan as may be required under Section 1112. All clearing activities are to be consistent with the provisions of this Development Code, the Soil Erosion, Sedimentation and Pollution Control provisions of this Development Code, and any conditions of zoning.
- (2) A clearing permit shall expire unless clearing activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and are abandoned for a period exceeding 30 consecutive calendar days.
- (3) A clearing permit shall not be construed as approval of or authorization to construct any improvements, buildings, or other structures on the property.

(b) Clearing and Grubbing Permit.

- (1) A clearing and grubbing permit may be approved based on approval of a Concept Plan and Tree Protection/Replacement Plan (if required) for the development. Appropriate soil erosion and sedimentation controls and tree protection measures shall be placed and maintained as required.
 - (2) A permit for clearing and grubbing shall expire unless activities are commenced within 60 days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 14 calendar days.
 - (3) A clearing and grubbing permit shall be limited to the removal of vegetation and stumps and 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. No grading or construction activities may be started under a clearing and grubbing permit. The approval of a clearing and grubbing permit shall not imply the approval of or authorization to construct any improvements, buildings, or other structures on the property.
- (c) Grading Permit.
- (1) A grading permit which may include clearing and grubbing, may be issued prior to approval of a development permit, as provided under Article 10 of this Development Code. A grading permit may also be issued for earth borrow or storage, where no development or construction is proposed or imminent, based on approval of a grading plan, soil erosion and sediment control plan, and hydrology study, consistent with the requirements of Section 1112, the zoning category of the site, and the provisions of the Comprehensive plan (as applicable).
 - (2) A grading permit shall expire unless activities are commenced within 60 consecutive calendar days of issuance of the permit or if activities lapse and the project is abandoned for a period exceeding 30 consecutive calendar days. Any site for which the grading permit expires shall immediately be stabilized to prevent erosion.
 - (3) A grading permit shall be limited in its authorization to land grading activities along with associated tree protection, clearing and grubbing, and demolition activities, and may authorize the construction of storm drainage improvements and soil erosion and sedimentation facilities as allowed by the permit.

1111.02 Development Permit.

(a) Development Activities Authorized.

A Development Permit shall be issued to authorize all activities associated with the land development process, including clearing and grubbing, grading, for the construction of such improvements as streets, surface parking areas and drives, sewer systems, stormwater drainage facilities, sidewalks, or related structures permanently placed on or in the property. Grading for building and structures requiring a building permit is not authorized under a Development Permit. Clearing, grubbing and grading outside the rights-of-way and utility easements is not allowed by a Development Permit unless in compliance with Section 1112. Water and sanitary sewer system improvements shall be authorized solely by the Gwinnett County Public Utilities Department.

(b) Development Permit Approval.

A development permit (which may include grading, clearing, and grubbing) shall be issued at the developer's request following approval of a Metropolitan River Protection Act Certificate, if applicable, and upon 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 to be submitted under this Article. All plans approved for a development permit shall expire after six months if no permit is issued within said time period.

(c) Expiration of Development Permits.

A development permit shall expire 12 consecutive calendar months after issuance unless development activity as authorized by the permit are commenced within said 12-month period or if such authorized activities lapse and the project is abandoned for a period exceeding 60 consecutive calendar days. The Planning and Development Director may approve one extension not exceeding three consecutive calendar months within which time development activity must commence or the permit shall expire. Said extension shall be applied for within the first 12 consecutive calendar months after the permit's issuance.

(d) Lapse in Construction Activity.

For the purposes of this Development Code, 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 of Duluth completely beyond the control of the developer, shall not be considered as a lapse in activity causing the development permit to expire. The 12 months within which development activity must begin shall exclude any such time period during which the activity is prohibited or has been caused to lapse by said City action or inaction.

(e) Expiration of Approved Development Plans.

- (1) If construction activity has not commenced within the permit period and the Development Permit expires, the Director shall require new site plans to be submitted for the project. The new plans must comply with any changes or amendments to these regulations, the Zoning Ordinance, or other ordinances as adopted by the City.
- (2) Where development plans have been approved by the Director, and no development permit has been issued, new plans shall be submitted after 24 months if a Development Permit has not been issued and construction has not commenced on the project.

Section 1112. Approval to Remove Trees.

1112.01 Tree Removal Approval Required for Development Activity.

- (a) No person shall engage in any new Development Activity, such as the construction of a subdivision, multi-family project or nonresidential development, without meeting the requirements of a Site Development Plan as required in Section 1116.
- (b) For any existing multi-family or nonresidential development for which a development permit was previously issued, no tree shall be removed that would reduce the tree density on the property below that required under Article 7 without the reissuance of the tree removal permit (or approval of a sketch if qualified under Section 1112.07(b)).
- (c) No person shall "clear cut" any parcels or combination greater than 2 acres without specific plan approval during zoning or first obtaining a Special Use approval. Clear cutting of parcels less

than 2 acres shall not be allowed unless approved by the Planning and Development Director with clear evidence of necessity for development of the parcel.

1112.02 Application Requirements for Tree Removal.

- (a) When a person applies for tree removal approval as defined in Section 1112.06, such person shall also file an application for a tree removal permit and provide the following information:
 - (1) A complete tree survey and inventory, as described in Section 1112.08.
 - (2) An integrated site plan showing Specimen Trees, the trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, drive-ways and curb cuts and proposed tree plantings and other landscaping.
 - (3) A detailed plan to protect and preserve trees before, during and for a period of 2 years after construction, which plan shall contain the following information:
 - a. All items found on the Erosion, Sedimentation and Pollution Control Submittal checklist pertinent to normal plan review.
 - b. Site area (roads, utility lines, detention ponds, etc.)
 - c. The locations of existing and proposed structures, paving, driveways, cut and fill area, detention areas, etc.
 - d. Phase lines or limits of construction.
 - e. A delineation of all protected zones with any required dimensions.
 - f. Calculations showing compliance with the required Site Density Factor using existing trees, replacement trees, and/or contributions to the City of Duluth Tree Replacement Fund or Tree Bank (See Density Factor Analysis, Article 7).
 - g. Location of all existing and proposed utility lines or easements.
 - h. Locations of any boring sites for underground utilities.
 - i. Locations of all Specimen Trees and indications whether they are to be removed or preserved.
 - j. Locations of all tree protection devices, materials to be used in each location and details.
 - k. A delineation of a Tree Save Area in which trees have been inventoried for density calculations.
 - l. If applicable, locations and details of all permanent tree protection measures (tree wells, aeration system, permeable paving, retaining walls, bollards, etc.; and
 - m. Additional information as required on a case-by-case basis.
- (b) Minor changes to existing development require only a sketch showing changes to be submitted to the Planning and Development Director for review and approval.

1112.03 Tree Survey Plan and Inventory.

- (a) The tree survey as required in Article 7 shall be in the form of a to-scale map or a site plan prepared and sealed by a registered surveyor or certified engineer, arborist or landscape architect, noting the location of all trees (as described in Paragraph 1112.08(b) below) within the area to

be modified from its natural state and 25 feet beyond in each direction or to the property line, whichever is less. (See example in Article 7.)

- (b) All Specimen Trees and all trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size (caliper or DBH, whichever is applicable) and species.
- (c) Sampling methods may be used to determine tree densities for forested (over 5 acres). Specimen Trees must be shown on the plan with an indication whether they are to be retained or removed. All Tree Protection zones (see example in Article 7) and Tree Save Areas must be delineated on the plan. All Buffers with existing trees must be delineated on plans as Tree Save Areas. Land disturbance within any Buffer is subject to Planning and Development Department approval.

1112.04 Tree Survey Inspection.

Following the receipt of the completed tree removal application and supporting data, the Planning and Development Director or his designee shall schedule and conduct an inspection of the proposed development site. The applicant or his designee shall be advised as to the date and time of the inspection and given an opportunity to participate. Following inspections, the Planning and Development Director, consistent with the purposes of this Development Code, shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replanting plans.

1112.05 Tree Removal Permit.

- (a) The Planning and Development Director shall review all applications and supporting data and take one of the following actions: approve, approve with conditions or disapprove.
- (b) The issuance of a tree removal permit does not authorize any development activity until such time as an appropriate development plan approval is granted and a permit is issued pursuant to Section 1111.
- (c) Tree removal and replacement shall begin no later than 180 days after issuance of the tree removal permit and shall be completed no later than two years after the issuance of the permit. The Planning and Development Director may refuse to issue any permit for tree removal until the submission of all development plans and receipt of other evidence satisfactory to the Director that there is a reasonable certainty that the development activity is imminent. One renewal of a permit at no additional fee shall be granted if a reasonable request is made.
- (d) No Certificate of Occupancy shall be issued until all requirements of the tree planting have been satisfactorily completed or an acceptable performance guarantee has been approved (see Section 1130).

1112.06 Tree Removal Approval Required for Development Activity.

- (a) No person shall engage in any new Development Activity, such as the construction of a subdivision, multi-family project or nonresidential development, without meeting the requirements of a Site Development Plan as required in Section 1116.
- (b) For any existing multi-family or nonresidential development for which a development permit was previously issued, no tree shall be removed that would reduce the tree density on the property below that required under Article 7 without the reissuance of the tree removal permit (or approval of a sketch if qualified under Section 1112.07(b)).

- (c) No person shall “clear cut” any parcels or combination greater than 2 acres without specific plan approval during zoning or first obtaining a Special Use approval. Clear cutting of parcels less than 2 acres shall not be allowed unless approved by the Planning and Development Director with clear evidence of necessity for development of the parcel.

1112.07 Application Requirements for Tree Removal.

- (a) When a person applies for tree removal approval as defined in Section 1112.06, such person shall also file an application for a tree removal permit and provide the following information:
 - (1) A complete tree survey and inventory, as described in Section 1112.08.
 - (2) An integrated site plan showing Specimen Trees, the trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, driveways and curb cuts and proposed tree plantings and other landscaping.
 - (3) A detailed plan to protect and preserve trees before, during and for a period of 2 years after construction, which plan shall contain the following information:
 - a. All items found on the Erosion, Sedimentation and Pollution Control Submittal checklist pertinent to normal plan review.
 - b. Site area (roads, utility lines, detention ponds, etc.)
 - c. The locations of existing and proposed structures, paving, driveways, cut and fill area, detention areas, etc.
 - d. Phase lines or limits of construction.
 - e. A delineation of all protected zones with any required dimensions.
 - f. Calculations showing compliance with the required Site Density Factor using existing trees, replacement trees, and/or contributions to the City of Duluth Tree Replacement Fund or Tree Bank (See Density Factor Analysis, Article 7).
 - g. Location of all existing and proposed utility lines or easements.
 - h. Locations of any boring sites for underground utilities.
 - i. Locations of all Specimen Trees and indications whether they are to be removed or preserved.
 - j. Locations of all tree protection devices, materials to be used in each location and details.
 - k. A delineation of a Tree Save Area in which trees have been inventoried for density calculations.
 - l. If applicable, locations and details of all permanent tree protection measures (tree wells, aeration system, permeable paving, retaining walls, bollards, etc.; and
 - m. Additional information as required on a case-by-case basis.
- (b) Minor changes to existing development require only a sketch showing changes to be submitted to the Planning and Development Director for review and approval.

1112.08 Tree Survey Plan and Inventory.

- (a) The tree survey as required in Article 7 shall be in the form of a to-scale map or a site plan prepared and sealed by a registered surveyor or certified engineer, arborist or landscape architect, noting the location of all trees (as described in Paragraph (b) below) within the area to be modified from its natural state and 25 feet beyond in each direction or to the property line, whichever is less. (See example in Article 7.)
- (b) All Specimen Trees and all trees that are to be counted toward meeting density requirements must be shown on the survey and inventoried by size (caliper or DBH, whichever is applicable) and species.
- (c) Sampling methods may be used to determine tree densities for forested (over 5 acres). Specimen Trees must be shown on the plan with an indication whether they are to be retained or removed. All Tree Protection zones (see example in Article 7) and Tree Save Areas must be delineated on the plan. All Buffers with existing trees must be delineated on plans as Tree Save Areas. Land disturbance within any Buffer is subject to Planning and Development Department approval.

1112.09 Tree Survey Inspection.

Following the receipt of the completed tree removal application and supporting data, the Planning and Development Director or his designee shall schedule and conduct an inspection of the proposed development site. The applicant or his designee shall be advised as to the date and time of the inspection and given an opportunity to participate. Following inspections, the Planning and Development Director, consistent with the purposes of this Development Code, shall advise the applicant of any recommended changes in the applicant's proposed tree removal, protection or replanting plans.

1112.10 Tree Removal Permit.

- (a) The Planning and Development Director shall review all applications and supporting data and take one of the following actions: approve, approve with conditions or disapprove.
- (b) The issuance of a tree removal permit does not authorize any development activity until such time as an appropriate development plan approval is granted and a permit is issued pursuant to Section 1111.
- (c) Tree removal and replacement shall begin no later than 180 days after issuance of the tree removal permit and shall be completed no later than two years after the issuance of the permit. The Planning and Development Director may refuse to issue any permit for tree removal until the submission of all development plans and receipt of other evidence satisfactory to the Director that there is a reasonable certainty that the development activity is imminent. One renewal of a permit at no additional fee shall be granted if a reasonable request is made.
- (d) No Certificate of Occupancy shall be issued until all requirements of the tree planting have been satisfactorily completed or an acceptable performance guarantee has been approved (see Section 1130).

Section 1113. Building Permits.**1113.01 Applicable Codes.**

Building permits for all structures or interior finishes are issued after the applicant for said permits has met the applicable requirements of the fire prevention and life safety codes of Gwinnett County, and

the various health, water, sewer, and building codes, as well as the provisions of any Certificate approved under the Metropolitan River Protection Act, if applicable.

1113.02 Health Department: On-Site Sewage Disposal.

For any structure for which on-site sewage disposal will be provided, a permit issued by the Health Department shall be required prior to issuance of a building permit. Said permit may first require approval by the Gwinnett County Health Department of a plan showing the location of the sewage disposal system and other site improvements, in accordance with their regulations.

1113.03 Single-Family and Duplex Residences.

- (a) A building permit for a single or two-family residence may be issued after the recording of a Final Plat or after the lot upon which the building is to be located has otherwise become a buildable lot of record.
- (b) The approval by the Department of a House Location Plan (HLP), Residential Drainage Plan (RDP), or Residential Drainage Study (RDS), may be required prior to issuance of the building permit, as noted and conditioned on the Final Plat or as may be required for compliance with the Georgia Metropolitan River Protection Act. For such lots, a Certificate of Occupancy shall not be issued until conformance to the HLP, RDP, or RDS has been field verified by the Planning and Development Department as shown on a certified field survey prepared by a Registered Land Surveyor and a stamped "as-built" survey has been submitted to the Department. (See Sections 1115.04 and 1115.05 for plan and study specifications.)
- (c) Digital drawing files shall be submitted in Adobe PDF file format.

1113.04 Swimming Pools.

Issuance of a building permit for a swimming pool as an accessory use to a single or two-family residence, whether to be issued at the same time as or subsequent to the permitting or construction of the dwelling, shall first require approval of a Swimming Pool Location Plan. The plan shall show the proposed location of the swimming pool and enclosing fence relative to the residence, the property boundaries, setback lines, septic tank and septic tank drain field (if any), and any easements on the site. The location of such swimming pool and shall comply with all requirements of the applicable zoning district and the Swimming Pool Code. Based on site conditions, a Residential Drainage Study (RDS) may be required prior to issuance of the building permit (see Section 1115.05). A Certificate of Occupancy shall not be issued until conformance to the Swimming Pool Location Plan and to provisions of the RDS, if applicable, has been field verified by the Department.

1113.05 Multi-Family and Nonresidential Structures.

- (a) Issuance of a building permit for any principal building other than a single-family detached or duplex residence (and associated accessory structure) shall first require issuance of a Development Permit for the building site, and the building permit shall be consistent with said Development Permit.
- (b) Building plans must be reviewed and approved by the Gwinnett County Fire Services Division, and Public Utilities Departments and the Duluth Planning and Development Department prior to permitting for all multi-family and nonresidential structures and such accessory structures.

Building Plan approval shall expire after one year, after which re-review and approval shall be required prior to issuance of a building permit for the building or additional buildings.

- (c) Digital drawing files shall be submitted in Adobe PDF file format.

1113.06 Issuance on Buildable Lots of Record; Exceptions.

Building permits shall only be issued on buildable lots of record, as defined in these Regulations, except under special circumstances limited to and as specifically described in this Section, below.

- (a) In a single-family detached and duplex residential subdivision, building permits for no more than two model home buildings, on specific lots may be issued by the Planning and Development Department on the basis of an approved Preliminary Plat after the approval by the Fire Services Division and the Gwinnett County Health Department or Water Pollution Control Division, as appropriate, and subject to all limitations or requirements as may be established by the Planning and Development Director. No Certificate of Occupancy shall not be issued for the completed model home until the Final Plat encompassing the model home building lots has been approved and recorded.
- (b) In fee-simple townhouse subdivisions, a building permit may be issued on a buildable lot of record established for each building (containing any number of townhouse dwelling units) through recording of a Final Plat following completion of all required public improvements. Upon completion of the buildings, the Final Plat shall be re-recorded to establish individual lots for the townhouse units, based on their actual locations, prior to issuance of Certificates of Occupancy.
- (c) In Non-Residential subdivisions, building permits may be issued by the Planning and Development Department on the basis of an approved Site Plan, after a Development Permit has been approved reflecting the site plan and construction drawings for specific buildings and associated site improvements, after the stormwater detention facility has been constructed and all erosion control measures have been installed according to the approved Erosion Control Plan. Issuance of the building permits shall be conditioned upon the following:
 - (1) A Performance Guarantee, prepared in accordance with Section 1130, shall have been received, drawn in favor of the City of Duluth and in an amount not less than 125% of the cost of completing all public improvements as authorized and required by the Site Plan and these Regulations;
 - (2) The Performance Guarantee shall not exceed an aggregate total for all required public improvements of \$12,000 per acre for the total acreage included within the subdivision or portion of the subdivision wherein the improvements are proposed, except by approval of the City Council;
 - (3) Gwinnett County Fire Services Division approval shall be required prior to issuance of any building permit, which may include approval of acceptable access and water pressure of combustible construction;
 - (4) Approval of Gwinnett County Health Department for on-site sewage disposal by the Gwinnett County Water Pollution Control Division for a building to be served by public sewer shall be required prior to issuance of any building permit;
 - (5) Construction of the required public improvements shall proceed concurrently with construction of the buildings;

- (6) No C.O. shall be approved for any structure within the subdivision prior to recording of the Final Plat without the express approval of the Planning and Development Director; and
- (7) The Planning and Development Director shall have found that the public interest is best served and that a public purpose is involved in the acceptance of the Performance Bond.

DIVISION III. PLAN AND PLAT SPECIFICATIONS.

The following Sections of this Division outline the required elements of both the required and optional plans and plats mentioned throughout this Development Code.

Section 1114. Concept Plan Specifications.

- (a) The approval of a Concept Plan for a subdivision or site development allows a property to be developed in smaller portions within the context of the plan for the entire property. Approval of a Concept Plan also allows early issuance of a clearing or a clearing and grubbing permit for a subdivision under Section 1120.02(c), or, for a non-subdivision project, a clearing, a clearing and grubbing or a grading permit under Section 1121.02(c). If the entire property is to be developed at once, a Concept Plan is not required.
- (b) A Master Concept Plan approved for a Planned Unit Development (PUD) serves as a “concept plan” in lieu of the requirements of this Section. See Article 5 for Master Concept Plan requirements.

1114.02 Concept Plan Specifications; General.

- (a) The Concept Plan for a subdivision or site development shall be clearly and legibly drawn at a scale of not less than 100 feet to one inch on a sheet size which shall not exceed 48 inches by 36 inches; however, a scale of 200 feet to one inch may be used to avoid sheet sizes larger than 48 inches by 36 inches. The Planning and Development Director may approve other sheet sizes as deemed appropriate.
- (b) The Concept Plan may be prepared as a freehand drawing to approximate scale showing the proposed improvements, rights-of-way, lot lines, etc., produced on a boundary survey or other property outline map of the property.

1114.03 The Concept Plan shall contain the following:

- (a) Approximate total acreage;
- (b) Proposed total number of lots and minimum lot size;
- (c) Size and location of adjoining existing streets or access drives and proposed rights-of-way, roadways, and access drives;
- (d) For multi-family 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;
- (e) Topography with contour intervals no greater than 10 feet;
- (f) Proposed method of sewage disposal (expressed as a note);
- (g) Boundary lines of the overall property showing bearings and distances along all lines and the bearings and distance to an existing street intersection or recognized permanent landmark. The source of said boundary information shall be indicated;

- (h) 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 for development at the time of the submittal shall be shown as "Future Development";
- (i) An 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 Code.

Authorized Agent/Owner

Date

- (j) Location sketch (vicinity map);
- (k) Lakes, ponds, and floodplains and the source of floodplain data including the panel number of flood insurance rate maps;
- (l) Required recreation areas and other public areas to be dedicated to the public or held in common ownership by a homeowner's association or other similar entity;
- (m) Existing zoning of the property and adjoining properties;
- (n) Land lot and district;
- (o) Subdivider's name, local, and permanent addresses (if different) and telephone number;
- (p) Name of company or person preparing the plan;
- (q) Boundaries of the Chattahoochee River Corridor and Chattahoochee River
- (r) Tributary Protection Areas, if applicable to the property;
- (s) General development data (in tabular form) for multi-family or nonresidential site developments, such as number of residential units, gross square feet of buildings, number of parking spaces, etc.;
- (t) General development data (in tabular form) for single family developments, such as minimum lot size, floor area of homes, and all relevant conditions of zoning; and,
- (u) A signature block to read as follows:

This Concept Plan has been reviewed and approved for general compliance with the Unified Development Code of the City of Duluth, Georgia.

Director, Department of Planning and Development

Date

Section 1115. Subdivision Development Plans.

1115.01 Subdivision Development Plans; General.

- (a) An application for a development permit for a subdivision shall include the following Development Plans: the Preliminary Plat, a certified boundary survey, associated slope or con-

struction easements (if any), and other such construction drawings and plans as may be required by this Section 1115.

- (b) The Development Plans shall generally conform to the Concept Plan, if any, or to the Master Concept Plan approved for a Planned Unit Development (PUD), and may constitute only that portion of the approved Concept Plan or PUD Master Concept Plan that the subdivider proposes to construct at one time as a single unit, provided that such portion conforms to the requirements of this Section 1115. If no Concept Plan or PUD Master Concept Plan was approved for the property, the Development Plans shall include the entire property being developed within the same zoning category.

- (c) Scale.

The Development Plans shall be clearly and legibly drawn at a scale of not less than 100 feet to one inch. Sheet size shall not exceed 48 inches by 36 inches. Plan and profile sheets shall have a horizontal scale of no less than 100 feet to one inch and a vertical scale of no less than 10 feet to one inch.

1115.02 Preliminary Subdivision Plats.

- (a) Certified Boundary Survey.

- (1) The Preliminary Plat shall be based on a certified boundary survey of the entire property contained within the Preliminary Plat, and it shall be tied to a point of reference (tie point) with the same degree of accuracy as the boundary survey itself.
- (2) The survey shall have an accuracy of no less than 1 in 10,000, and shall meet all requirements of Georgia Law regarding the recording of maps and plats.
- (3) Each Preliminary Plat shall be drawn on, accompanied by or referenced to a boundary survey meeting the minimum requirements of the preceding paragraph.

- (b) The Preliminary Plat shall contain the following:

- (1) Proposed name of subdivision.
- (2) Name, address, and telephone numbers of both the owner of record and the subdivider.
- (3) Names, addresses, and telephone numbers of each professional firm associated with the development planning (i.e., engineer, 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 residences, duplexes, townhouses, office park, industrial subdivision, etc. For residential subdivisions, indicate the total number of dwelling units within plat.
- (6) Location (Land District and Land Lot), acreage, and density, if applicable.
- (7) Location sketch showing the subdivision in relation to the surrounding area with regard to well-known landmarks such as major streets, rivers and railroads. Sketches may be drawn freehand and at a scale sufficient to clearly show the information required but not less than one inch equal to 2,000 feet. U.S. Geological Survey Maps may be used as a reference guide for the location sketch.

- (8) Name of former subdivision, if any, and all of the land in the Preliminary Plat which has previously been subdivided, showing boundaries of same.
- (9) Boundary lines of the tract shall be indicated by a heavy line giving lengths in feet and hundredths of a foot, bearings in degrees, minutes, and seconds, and the 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 shall be drawn at intervals of not more than two feet. Contour lines shall be based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic contour shown shall 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 shall be indicated. The 100-year floodplain shall be outlined and the source of the depicted floodplain shall be indicated. For those lots containing floodplain, a Floodplain Lot Chart shall 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 rights-of-way measured from centerline, pavements widths, names of existing and platted streets; all easements, city, and County jurisdiction lines; existing structures on the site and their proposed disposition, Chattahoochee River Corridor information and limits of Chattahoochee River Tributary Protection Area (if applicable), and other significant information. Location and dimensions of existing bridges; water, sewer lines and other existing utility lines, culverts and other existing features should be indicated.
- (14) Proposed layout including lot lines, lot numbers and block letters, proposed streets with roadway and right-of-way lines and names, sites reserved through covenants, easements, dedications, or otherwise for public uses. Lots shall be numbered in numerical order and blocks lettered alphabetically. The minimum building setback lines from all streets shall be shown. Streets (including cul-de-sacs) shall be dimensioned to show rights-of-way and roadway widths, central angles, and intersection radii. Centerline curve data shall be provided for 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 unit number, division, or phase of development, if any, proposed by the subdivider.
- (16) Existing zoning of the property, rezoning and variance case numbers, dates of approval and conditions (as applicable) shall be shown. Note minimum lot size, 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) Show 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.

- (19) Proposed recreation area sites, if any; land area of the site, area and percent of site within the 100-year floodplain, proposed disposition of the site (public ownership, homeowner's association, etc.).
- (20) Such additional information as may be reasonably required to permit adequate evaluation of the subdivision.
- (21) Street lighting design which conforms to The American National Standard Practice for Roadway Lighting.
- (22) Statement of Approval. Each Preliminary Plat shall carry the following certificate printed or stamped thereon:

All requirements of the Development Regulations of the City of Duluth 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 governmental jurisdictions, agencies and departments under their 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 Development Regulations and other City existing Regulations.

Director, Department of Planning and Development

Date

THIS APPROVAL 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.

- (c) The Preliminary Plat shall be accompanied by other Development Plans showing the following information when such information is not shown on or evident from the Preliminary Plat. The various plans may be combined where appropriate and clarity can be maintained.
 - (1) An Erosion Control Plan prepared in accordance with the requirements of the Soil Erosion, Sedimentation and Pollution Control Division of Article 10. Erosion control measures may be shown on the Grading Plan, if desired.
 - (2) Grading Plans prepared in accordance with the requirements of this Development Code if grading is proposed beyond the street rights-of-way.
 - (3) 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 rights-of-way lines.
 - b. Profiles of all storm drainage pipes and the slope of receiving channels. On storm drainage profiles, a pipe chart will be shown which includes pipe numbers, pipe sizes, pipe materials, pipe slopes, pipe length, contributing drainage area, design flow, de-

sign storm frequency, runoff coefficient and velocity. The hydraulic grade line will be shown on all pipes for the required design flow. The hydraulic grade line will be shown for all pipes located in the public rights-of-way for the design flow.

- 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 will 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 size of structures, including a map of all contributing drainage basins and acreages.
- (4) If sanitary sewers are required by Gwinnett County Water Pollution Control, Sanitary Sewer Plans, including the location and size of all proposed sewer lines, manholes, easements required therefore, and sufficient dimensions to locate same on the ground.
- (5) Construction Data for New Streets and Street Widening:
- a. Centerline profiles and typical roadway sections of all proposed streets and 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 shall be indicated on the road profile.
 - c. Profiles covering roadways that are extensions of existing roadways shall include elevations at 50-foot intervals for such distance as may be adequate to provide for continuity consistent with the standards required by these Regulations for street improvements but not less than 200 feet.
 - d. All elevations shall be coordinated and tied 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. Stub streets shall be profiled at least 200 feet onto the adjoining property (no tree cutting).
- (6) Buffer and Landscape Plan, if any such areas exist within the subdivision, prepared in accordance with the requirements of Article 7 and specification of these Regulations.
- (7) Tree Protection Plan (if required).
- (8) Floodplain Management Plans. If any floodplain areas are located on the property, such data as is required by the Floodplain Management provisions of Article 8 shall be submitted.
- (d) Encroachments.
- Where construction is proposed on adjacent property, an encroachment agreement or easement shall be submitted to the Department.

1115.03 Final Plat Specifications.

- (a) The Final Plat shall be clearly and legibly drawn in black ink on tracing cloth or other permanent reproducible material. The scale shall be 100 feet to one inch or larger. Sheet size shall not exceed 48 inches by 36 inches. (Note that any sheet larger than 17 inches by 22 inches must be

photographically reduced to no more than 17 inches by 22 inches in order to be recorded with the Clerk of the Superior Court.)

- (b) The Final Plat shall 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 shall have an accuracy of no less than 1 in 10,000, and shall meet all requirements of Georgia Law regarding the recording of maps and plats.
- (c) The Final Plat shall substantially conform to the Preliminary Plat and it may constitute only that portion of the Preliminary Plat which the subdivider proposes to record at the 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 approved Preliminary Plat shall require revision and re-approval of the Preliminary Plat.
- (d) The Final Plat shall contain the following information:
 - (1) Name of the subdivision, unit number, Land District, and Land Lot numbers.
 - (2) Names, addresses, and telephone numbers of the owner of record and the subdivider if not the owner.
 - (3) Names, addresses, and telephone numbers of each professional firm associated with the portion of the subdivision within the Final Plat.
 - (4) Date of plat drawing, graphic scale, north point; notation as to the reference of bearings to magnetic, true north or grid north, and 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 and date of approval for any applicable rezoning, Special Use approval, variance or waiver affecting the property.
 - (8) Location and dimension of any buffer, landscape strip, special setback, no-access easement, etc., required by this Development Code.
 - (9) Boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest one-hundredth of a foot and bearings to the nearest second. Bearing and distance to a designated tie point shall be shown. The Plat shall have a closure precision of one 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.
 - (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, bearings to the nearest second, and radii of rounded corners, as necessary to delimit each lot.
- (14) Building 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 measured in accordance with the Zoning Ordinance may be required to be shown, if deemed necessary by the Department for clarity.
- (16) Lots numbered in numerical order and blocks lettered alphabetically.
- (17) Location and size of all drainage pipe, 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 common use of all property owners, or dedicated to a homeowner's association.
- (19) Accurate location, material, and description of monuments and markers. (Note: All monuments shall be in place prior to approval of the Final Plat.)
- (20) Certificates and statements specified in these Regulations, below.
- (21) All information required under the Georgia Metropolitan River Protection Act for recording of plats, if applicable.
- (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. Origin of the floodplain data shall be indicated.
- (23) Street address numbers and block number designations for street names signs on abutting streets, where appropriate.
- (24) Individual lots shall be designated HLP (House Location Plan), RDP (Residential Drainage Plan) and/or RDS (Residential Drainage Study) if such are required by the Department to be approved prior to issuance of a building permit.
- (25) All other notes or notations as may be required by the Department.
- (26) All fees associated with traffic control devices and street name signs must be paid in full to Gwinnett County Traffic Engineering prior to approval of the final plat.
- (e) If any streets, lands or easements are shown as the Final Plat for dedication to the City of Duluth, a Warranty Deed or deeds transferring title to said streets, lands or easements in fee simple, in a form acceptable to the City, shall be submitted with the Final Plat application.
- (f) If any lands are shown on the Final Plat for dedication to a Property Owners Association in order to meet minimum park, open space or conservation area requirements of these Regulations, a copy of the deed of transfer for such dedication and a copy of the instrument of incorporation of the Property Owners' Association shall be submitted with the Final Plat application.
- (g) Each Final Plat shall bear the following certificates or statements printed or stamped thereon as follows:
 - (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 hereon, and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist on their location, size, type and material are correctly shown. The field data upon which this plat is based has 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 ____ acres. The equipment used to obtain the linear and angular measurements herein was ____.

(2) Owners Acknowledgement 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 dedicates by this Declaration to the use of the public forever all streets, sewer collectors, lift stations, drains, easements, and other public facilities and appurtenances hereon shown, and transfers ownership of all public use areas in fee simple by deed, for the purposes herein expressed.

Signature of Subdivider

Date Signed

Printed or typed name of Subdivider

(3) Notification of Private Streets.

The following statements must be included on any final plat in which the streets are to be held in private ownership:

NOTIFICATION OF PRIVATE STREETS

This subdivision is served by private streets.

The streets designated as "private streets" on this plat are owned and maintained by the Homeowners Association of this development and are not owned or maintained by the City of Duluth. No public funds of the City are to be used to build, repair or maintain these private streets. The owners, purchasers, lenders, heirs, assigns or other parties taking title to or otherwise procuring an interest in any portion of this property are ultimately responsible for such maintenance and repairs, individually or through the Homeowner's Association.

RIGHT OF ACCESS

The streets designated as "private streets" on this plat are subject to an easement that grants the right of vehicular access to every lot served by the street, as well as the right to place and have access to public and private utilities therein by the owners of such utilities.

PURCHASERS ACKNOWLEDGEMENT

The above statement must be divulged at the sale of any lot within this subdivision and acknowledged by the signature of the purchaser of the lot in order to obtain a house location plan approval, building permit or certificate of occupancy from the City of Duluth.

- (4) A statement of private covenants if any, and if 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.

- (5) Final Plat Approval:

The Director of the Department of Planning and Development of the City of Duluth, Georgia, certifies that this plat complies with the Unified Development Code of the City of Duluth, as currently in effect, as well as all applicable conditions of zoning approval; and has been approved by all other affected governmental jurisdictions, agencies and departments, as applicable. The Director hereby accepts on behalf of the City of Duluth the dedication of all public rights-of-way and easements, storm drainage and other public facilities, and the Director hereby acknowledges acceptance of the public water and sewer lines and facilities by Gwinnett County. This plat is approved subject to the provisions and requirements of the Development Performance and Maintenance Agreement for this project dated _____, 20____, along with all associated sureties and warranties executed between the Owner and the City of Duluth.

DATED THIS _____ DAY OF _____, 20_____.

Director, Department of Planning and Development

- (6) Public Notice - Drainage. Every Single-Family Residential Final Plat shall contain the following statement:

NOTE: The City of Duluth 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.

Every Final Plat that is not a single-family subdivision shall contain the following statement:

NOTE: The City of Duluth 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 Duluth does not assume the responsibility for the maintenance of pipes in drainage easements beyond the City right of way.

- (7) House Location Plans (HLP). On any Final Plat containing one or more lots for which a House Location Plan approval will be required prior to issuance of a building permit, the following statement shall be included:

HLP - HOUSE LOCATION PLAN

A House Location Plan shall be required to be approved by the Planning and Development Department prior to 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 application. 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 Gwinnett County Development Regulations or contact the Duluth Development Regulations for more information.

- (8) Residential Drainage Plan (RDP) or Study (RDS). On any Final Plat containing one or more lots for which either a Residential Drainage Plan (RDP) or Residential Drainage Study (RDS) will first be required prior to issuance of a Building Permit, the following statement shall be included:

RDP - RESIDENTIAL DRAINAGE PLAN or RDS - RESIDENTIAL DRAINAGE STUDY

A Residential Drainage Plan or Residential Drainage Study shall be required to be approved by the Planning and Development Department prior to issuance of a Building Permit on those lots labeled "RDP" or "RDS", respectively. Please refer to the Duluth Development Regulations and contact the Department for more information.

1115.04 House Location Plan (HLP).

House Location Plans, when required, must meet the following requirements:

- (a) House Location Plans shall be drawn to scale and may be shown on a certified boundary survey of the lot or any other drawing showing the information required. The HLP may be combined with a Residential Drainage Plan (RDP) if both are required for the lot.
- (b) It is not the intent that the House Location Plan be prepared by a registered surveyor or engineer, but said plan must be done with sufficient accuracy to ensure that the proposed improvements will be constructed in conformance with the regulations of this Development Code, as applicable.
- (c) House Location Plans shall show the following information 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. If the lot is located in a subdivision served by private streets, the following notations shall be placed on the HLP:

NOTIFICATION OF PRIVATE STREETS

This lot is served by a private street.

Any such private street is owned and maintained by the Homeowners Association of the development and is not owned or maintained by the City of Duluth. No public funds of the City are to be used to build, repair or maintain these private streets. The owners, purchasers, lenders, heirs, assigns or other parties taking title to or otherwise procuring an interest in any portion of this property are ultimately responsible for such maintenance and repairs, individually or through the Homeowner's Association.

- (3) Minimum front, side and rear 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, including dimensions on all improvements and distances of each to the nearest property lines.
 - (5) All easements, public water, sewer or storm drainage facilities traversing or located on the property, and septic tank and drain fields, if any.
 - (6) Subdivision name, lot designation, land lot, and district.
 - (7) North arrow and scale.
 - (8) Limits of the 100-year floodplain, if applicable, and any required buffers or special setback lines.
 - (9) If the lot is located within the Chattahoochee River Corridor, the location of each area by vulnerability category and calculations of impervious surface and clearance by category, or other such data required in accordance with the Certification for the subdivision approved under the Metropolitan River Protection Act. Show any buffer or setback required under said Act.
 - (10) All other applicable requirements of this Development Code.
 - (11) Names, addresses, and telephone numbers of both the owner of the property and the person preparing the House Location Plan.
- (d) If a lot is located in the Chattahoochee River Corridor, a Certificate of Occupancy shall not be issued for the structure or any other improvements until conformance to the provisions or other requirements of the House Location Plan have been field verified by the builder's surveyor and submitted to the Planning and Development Department.
 - (e) The House Location Plan shall contain the following signature block. If the HLP is required because of floodplain on the lot, the language contained in the brackets below must be included; otherwise, said bracketed language should be deleted from the signature block.

This House Location Plan has been reviewed for general compliance with the Unified Development Code of the City of Duluth, Georgia, and is hereby approved for issuance of a Building Permit for the residential structure and other improvements shown hereon. [No framing inspection will be approved until a certification of the elevation of the lowest floor, as built, prepared by a Registered Land Surveyor or Professional Engineer, has been received by the Department.] This approval is granted with the provision that no Certificate of Occupancy shall be issued for completion of construction until conformance to this House Location Plan has been field verified by the Department of Planning and Development or verified by an “as-built” survey prepared for the builder by a Registered Land Surveyor and submitted to the Planning and Development Department.

Director, Department of Planning and Development

Date

1115.05 Residential Drainage Plan (RDP) or Study (RDS).

- (a) Residential Drainage Plans, when required, must meet the following requirements: Residential Drainage Plans (RDPs) shall be drawn to scale on a certified boundary survey of the lot prepared by a Registered Land Surveyor, having an error of closure not exceeding one in 5000 feet. The Residential Drainage Plan may be combined with a House Location Plan if both are required for the lot.
- (b) Residential Drainage Plans shall 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, including dimensions on all improvements and distances of each to nearest property lines.
 - (4) All easements, public water, sewer or storm drainage facilities traversing or located on the property, and septic tank and drain field, if any.
 - (5) Subdivision name, lot designation, land lot, and district.
 - (6) North arrow and scale.
 - (7) Contour lines based on sea level datum. These shall be drawn at intervals of not more than two feet and shall be based on a field survey. Proposed grading of the lot shall 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 easements and directions of flow.
 - (9) Floodplain features, including the limits of the flood hazard area, 100-year flood high water elevation, 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, addresses, and telephone numbers of both the owner of the property and person preparing the Residential Drainage Plan.
- (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 Residential Drainage Plan.
- (c) A Residential Drainage Study (RDS) shall be conducted by the developer's or builder's design professional prior to issuance of a Certificate of Occupancy on those lots so noted on the Final Plat. The requirements for a RDS contained herein shall apply to lots that formerly required SSED (Site Study – Engineering Division) approval prior to issuance of a Building Permit.

The grading and construction of the lot shall 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 prior to issuance of a Certificate of Occupancy.
- (d) A Certificate of Occupancy shall 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 verified in the field.
- (e) If a 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.

Section 1116. Site Development Plans.

1116.01 Site Development Plans; General.

- (a) An application for a Development Permit for a multi-family or nonresidential site shall 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 Section 1116.
- (b) The Development Plans shall generally conform to the Concept Plan, if any, or to the Master Concept Plan approved for a Planned Unit Development (PUD), and may constitute only that portion of the approved Concept Plan or PUD Master Concept Plan which the developer proposes to construct as a single unit, provided that such portion conforms to the requirements of these Regulations, all setbacks, maximum density and other zoning restrictions. If no Concept Plan or PUD Master Concept Plan was approved on the property, the Development Plans shall include the entire property being developed having the same zoning classification.
- (c) Scale.

The Development Plans shall be clearly and legibly drawn at an engineering scale convenient to illustrate the details of the project. Sheet size shall not exceed 48 inches by 36 inches. Plan and Profile sheets, if any, shall have a horizontal scale of no less than 100 feet to one inch and a vertical scale of no less than 10 feet to one inch.

1116.02 Project Boundary Data.

- (a) The Site Plan shall 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, which is tied to a point of reference (tie point) with the same degree of accuracy as the boundary survey itself. The survey shall have an accuracy of no less than 1 in 10,000, and shall meet all requirements of Georgia Law regarding the recording of maps and plats.

- (b) Each Site Plan shall be drawn on, accompanied by or referenced to a boundary survey which shall at least meet the requirements of the above paragraph.

1116.03 The Site Plan shall contain the following (on one or more sheets):

- (a) 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.
- (b) Names, addresses, and telephone numbers of both the owner of the property, and the developer, if different.
- (c) Names, addresses, and telephone numbers of each professional firm associated with the Site Plan (engineer, landscape architect, etc.).
- (d) Date of survey, north point, and graphic scale, source of datum, date of drawing, and space for revision dates.
- (e) Proposed use of the site, including gross square footage for each different type of use or building.
- (f) Location (Land Lot and District), acreage or area in square feet, and density (if applicable).
- (g) 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 in freehand and at a scale sufficient to show clearly the information required, but not less than one inch equal to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide for the location sketch.
- (h) Size and location of all buildings, building setback lines, minimum yard lines, and distances between buildings and from buildings to the nearest property lines; location of outdoor storage areas; parking and loading areas, driveways, curb cuts and designated fire lanes. Each building shall be identified with a number or letter.
- (i) 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.
- (j) Directional flow arrows for street drainage.
- (k) Contour lines based on sea level datum. These shall be drawn at intervals of not more than 2 feet and shall include the entire site and all abutting public streets. Contour lines shall be based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic contour shall be specified and dated.
- (l) 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 shall be indicated. The 100-year floodplain shall be outlined and the source of the depicted floodplain information shall be indicated. The acreage or area in square feet within the floodplain shall be indicated.
- (m) Man-made and cultural features existing within and adjacent to the proposed development, including existing rights-of-way measured from centerline, pavement widths, and locations of jurisdictional lines (if appropriate); existing structures on the property and their disposition, Chattahoochee River Corridor information and Chattahoochee River Tributary Protection Areas (if applicable), and other significant information. Location and dimensions of existing bridges; wa-

ter and sewer, and other existing lines; other public utility lines and structures; culverts and other existing features should be shown.

- (n) Proposed street names, roadway and right-of-way lines and widths and sites reserved through covenants, easement, dedication or otherwise for public use.
- (o) Identify unit number, division or stage of development, if appropriate, as proposed by the developer.
- (p) Show all adjoining property owners, subdivision names, lot numbers, block letters and lot lines, and zoning.
- (q) Show the location and number of parking spaces, as required in the Zoning and Georgia Handicap Laws.
- (r) Zoning district and rezoning case number, date and conditions of approval (as applicable). Variances obtained for the development site should be shown with case number, date of approval and conditions (if applicable). Note any approved waivers of these Regulations.
- (s) If buffers, other landscaping or screening treatments are required, show the location, size, and type of materials (natural or planted) on the plan in conformance with the Tree Protection Plan or Buffer and Landscape Plan, as applicable.
- (t) Location, height, and size of all freestanding signs to be erected on the site, and indication whether lighted or unlighted.
- (u) Location of all known existing landfills and proposed on-site bury pits (State EPD Permit or other approval may be required).
- (v) Such additional information as may be reasonably required to permit an adequate evaluation of the project.
- (w) Development Approval Statement. Each Site Plan shall carry the following certificate printed or stamped thereon:

All requirements of the Unified Development Code of the City of Duluth, Georgia, 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 jurisdictions, agencies and departments as required under their respective and applicable regulations, approval is hereby granted for this Site Plan and all other Development Plans associated with this project subject to all further provisions of said regulations and requirements.

Director, Department of Planning and Development

Date

THIS APPROVAL EXPIRES TWELVE (12) MONTHS FROM THE DATE OF APPROVAL UNLESS A DEVELOPMENT PERMIT IS ISSUED.

1116.04 Other Plans Required.

The Site Plan shall 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.

- (a) Erosion Control Plan prepared in accordance with the requirements of the Soil Erosion, Sedimentation and Pollution Control Division of Article 10. Erosion control measures may be shown on the Grading Plan, if desired.
- (b) Grading Plan prepared in accordance with the requirements of this Development Code, if applicable.
- (c) Stormwater Drainage Construction Data:
 - (1) Location and size of all proposed drainage improvements, and drainage easements to be located outside street right-of-way lines.
 - (2) Profiles of all storm drainage pipe and slope of receiving channels. Hydraulic grade lines shall be shown for all pipes (except roof drains) for the required design flow. On storm drainage profiles a pipe chart will be shown which will include pipe number, pipe size, pipe material, pipe slope, pipe length, contributing drainage area, design flow, design storm frequency, runoff coefficient and velocity. On all pipes, the hydraulic grade line shall be shown. Profiles of all open channels and ditches including the design flow normal depth and velocity. On storm drainage profiles an open channel chart will be shown which will include open channel numbers, conveyance size, lining material, length, channel slope, contributing drainage runoff coefficient and velocity for the required design flow.
 - (3) Acreage of drainage areas and hydrological study used in determining size of structures, including map of all contributing drainage basins and acreages.
- (d) Sewage Disposal Plans, as follows:
 - (1) Sanitary Sewer Plans, including profiles and other information as may be required by Gwinnett County Water Pollution Control.
 - (2) For projects proposed to be served by on-site sewage disposal systems, the Gwinnett County Health Department must be consulted.
- (e) Street Widening and Construction Data:
 - (1) Centerline profiles and typical roadway sections of all proposed street improvements. Profiles (and plans, where required) shall be drawn on standard plan and profile sheets with plan sections showing street layout, pavement and right-of-way width, curvature, and required drainage facilities.
 - (2) Where sanitary or storm sewers are to be installed within a street, the grade, size, location and invert elevations of manholes shall be indicated on the road profile.
 - (3) Profiles covering roadways that are extensions of existing roadways shall include elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards of these Regulations, but no less than 200 feet.
 - (4) All elevations shall 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.

- (f) Floodplain Management Plans. If any floodplain areas are located on the property, such data as is required by the Floodplain Management provisions of Article 8 shall be submitted.
 - (g) 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 shall also be indicated.
 - (h) Street striping plan, showing striping in accordance with *the Manual on Uniform Traffic Control Devices*, for any street to be widened to four or more lanes.
 - (i) Landscape Plan:
 - (1) A complete tree survey and inventory, as described in Section 1112.03.
 - (2) An integrated site plan showing Specimen Trees, the trees to be saved and those to be removed, utilities to be installed, grading, the approximate location of all structures, driveways and curb cuts and proposed tree plantings and other landscaping.
 - (3) A detailed plan to protect and preserve trees before, during and for a period of 2 years after construction, which plan shall contain the following information:
 - a. All items found on the Erosion, Sedimentation and Pollution Control Submittal checklist pertinent to normal plan review.
 - b. Site area (roads, utility lines, detention ponds, etc.)
 - c. The locations of existing and proposed structures, paving, driveways, cut and fill area, detention areas, etc.
 - d. Phase lines or limits of construction.
 - e. A delineation of all protected zones with any required dimensions.
 - f. Calculations showing compliance with the required Site Density Factor using existing trees, and/or replacement trees (See Density Factor Analysis, Article 7.)
 - g. Location of all existing and proposed utility lines or easements.
 - h. Locations of any boring sites for underground utilities.
 - i. Locations of all Specimen Trees and indications whether they are to be removed or preserved.
 - j. Locations of all tree protection devices, materials to be used in each location and details.
 - k. A delineation of a Tree Save Area in which trees have been inventoried for density calculations.
 - l. If applicable, locations and details of all permanent tree protection measures (tree wells, aeration system, permeable paving, retaining walls, bollards, etc.; and
 - m. All proposed plantings per Article 7.
 - n. Additional information as required on a case-by-case basis.
- (The above items may be integrated into the normal application requirements and submittal.)

- (j) Minor changes to existing development require only a sketch showing changes to be submitted to the Planning and Development Director for review and approval.

1116.05 Encroachments.

Where construction is proposed to extend onto adjacent property, an encroachment agreement or easement shall be submitted to the Planning and Development Department with the Site Plan.

1116.06 Public Notice – Drainage.

Every Site Plan shall contain the following statement:

NOTE: The City of Duluth assumes no responsibility for overflow or erosion of natural or artificial drains beyond the extent to the street right-of-way, or for the extension of culverts beyond the point shown on the approved and recorded plan. The City does not assume the responsibility for the maintenance of pipes in drainage easements beyond the City right-of-way.

Section 1117. Tree Protection Plan Specifications.

A Tree Protection Plan shall be drawn and submitted to the Department in accordance with the requirements as stated in the Buffer, Landscape and Tree Conservation provisions of Article 7.

Section 1118. Buffer and Landscape Plan Specifications.

A Buffer and Landscape Plan shall be drawn and submitted to the Department in accordance with the requirements as stated in the Buffer, Landscape and Tree Conservation provisions of Article 7.

Section 1119. Digital Submission Requirements: As-Built Data and Final Plats.

1119.01 Digital submissions.

In addition to the requirements of this Development Code for the submission of printed copies, development plans, as-built data drawings and all final subdivision plats approved for recordation shall be submitted to the Planning and Development Department in a digital format as follows:

- (a) Digital drawing files shall be submitted in Adobe PDF format and shall include:
 - (1) Final plat as approved as required under Section 1115.03.
 - (2) As-built survey drawings as required under Section 1127.02(a).
 - (3) Site Development plans as required under Section 1116.

DIVISION IV. PROCEDURES.

Section 1120. Subdivision Review Procedures.

1120.01 Pre-Application Conference.

Whenever any subdivision of a tract of land is proposed to be made, whether for residential or non-residential development, the subdivider is encouraged to present to the Planning and Development Department preliminary documents and graphic exhibits to permit early evaluation of the subdivid-

er's intentions and coordination with the Comprehensive Plan, this Development Code, Metropolitan River Protection Act, etc., and to inform and provide the subdivider with the necessary regulations in order to properly accomplish the proposed project.

1120.02 Concept Plan Approval.

- (a) Application for Concept Plan approval shall be submitted to the Planning and Development Department using an official application form provided by the Department. The Concept Plan shall include the entire property being proposed for development, but need not include the applicant's entire contiguous ownership.
- (b) In such case that the subdivider elects not to submit a Concept Plan, the subdivider may proceed directly with the submittal of Development Plans provided that the plans show the entire property proposed for development. In so doing, however, the subdivider assumes the risk of premature design and engineering expenses in the event that the City requires substantial design and engineering changes.
- (c) Following Concept Plan approval, a clearing permit meeting the requirements of Section 1111.01(a) or a clearing and grubbing permit meeting the requirements of Section 1111.01(b) may be issued. Such permits must be consistent with an approved Certificate issued under the Metropolitan River Protection Act, if applicable.
- (d) Copies of the approved Concept Plan shall be provided to the Department for permanent record in the number determined by the Director.

1120.03 Development Plans Approval for Subdivisions.

- (a) An application for Development Plans approval and issuance of a development permit shall be submitted to the Department using an application form and number of copies as determined by the Planning and Development Director. The Development Plans may include only a portion of the 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. The application shall include the Preliminary Plat, and construction drawings. All construction drawings and other engineering data shall be prepared and sealed by a Professional Engineer or Landscape Architect currently registered in the State of Georgia, in accordance with provisions of Georgia Law.
- (b) Following submission of the Development Plans, including a Preliminary Plat and all construction drawings required for development permit review, a grading permit shall be issued upon the developer's request provided that said permit shall also be based upon a Tree Protection Plan (if required), soil erosion and sedimentation control plan, hydrology study, and related construction drawings, and consistent with an approved Certificate issued under the Metropolitan River Protection Act Certificate (if applicable). The grading permit shall be limited to the area within the approved Development Plans and may be further conditioned as deemed appropriate or necessary pending development permit approval.
- (c) The Planning and Development Director shall indicate on a review copy of the drawings or in a written memorandum all comments related to compliance of the Development Plans with this Development Code, principles of good design, conditions of zoning approval, and the regulations of other departments and State agencies as appropriate. The Director shall have final staff authority to determine the applicability of all comments under this Development Code and conditions of zoning approval.

- (d) The Planning and Development Director may not approve any Preliminary Plat whereon is shown a lot which 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 the presence of floodplain, unusual configuration, lack of public utilities or for any other reason. A House Location Plan (HLP) may be required as a part of the Preliminary Plat approval to substantiate the buildability of any such difficult or unusual lot.
- (e) The subdivider shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments of the Planning and Development Director.
- (f) Should an applicant disagree with the findings or final review comments of the Planning and Development Director or of any other department or agency having jurisdiction, concluding that factual or interpretive errors have been made, the applicant may file an appeal under the provisions of Article 12.
- (g) When the Director has determined that the plat and other Development Plans are in compliance with all applicable City regulations and requirements and approval has been received from all other departments and agencies having jurisdiction, he or she shall sign and date a development approval statement (Section 1115.02(b)(22)) which is stamped or printed on a reproducible copy of the plat. Approved copies of the Preliminary Plat and Development Plans shall be transmitted to the applicant and retained by the Department for its records.
- (h) Following the above approval, a Development Permit shall be issued at the developer's request to begin construction activities based on the approved Development Plans.

1120.04 Final Plat Approval.

- (a) When construction of the subdivision or a recordable portion of the subdivision has been completed (except for items for which a performance guarantee can be accepted), the subdivider may submit an application to the Planning and Development Department for Final Plat approval, using an application form and number of copies as determined by the Director.
- (b) The Planning and Development Director shall indicate on a review copy of the plat or in a written memorandum all comments related to compliance of the Final Plat with this Development Code, conditions of zoning approval, and the regulations of other City departments and State agencies as appropriate. The Director shall have final staff authority to determine the applicability of any and all comments under this Development Code or conditions of zoning approval.
- (c) The Director may not approve any Final Plat whereon is shown or by which is otherwise created 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 public utilities, or for any other reason.
- (d) Lots that 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 Final Plat with the appropriate notation that a HLP, RDP or RDS will be required prior to issuance of a building permit. See Sections 1115.04 and 1115.05 for details.

- (e) The subdivider shall be responsible for compliance with all codes, regulations, zoning requirements and for the satisfaction of all of the comments of the Planning and Development Director.
- (f) Final approval by the Planning and Development Director shall 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, prepared in accordance with the requirements of Section 1127 and Section 1128.
- (g) The Director shall further determine that either:
 - (1) All improvements to the subdivision required for approval of the Final Plat under the rules and regulations of the City of Duluth have been completed in accordance with the appropriate specifications; or
 - (2) All of the required improvements have been completed except final grassing, pavement topping, required landscaping, or sidewalks, in which case) a performance guarantee meeting the requirements of Section 1130 shall have been filed by the subdivider with the Development Performance and Maintenance Agreement.
- (h) Payment for materials and installation of traffic control and street name signs shall be made to the appropriate Gwinnett County Department in accordance with the traffic engineering regulations prior to approval of the Final Plat. Payment of the cost of striping major thoroughfares or signalization, where required, if not completed by the developer shall also be received by the appropriate Gwinnett County Department prior to approval of the Final Plat.
- (i) Payment of the required plat recording fee shall be made to the City prior to approval of the Final Plat.
- (j) Once the Department has approved the Final Plat and all other affected departments and agencies of government as required have certified compliance and signed the Route Sheet or have stamped the plans, the Planning and Development Director shall certify by his or her signature on the original of the Final Plat that all of the requirements of this Development Code and the conditions of zoning approval have been met, and that all other affected departments and agencies having jurisdiction have approved the plat. The Final Plat shall not be deemed approved until it has been signed by the Planning and Development Director and where use of septic tanks is proposed, by a duly authorized representative of the Gwinnett County Health Department.

1120.05 Recordation of Approved Final Plat.

- (a) The Planning and Development Director will forward the executed deeds for the streets, lands and easements as well as the Development Performance and Maintenance Agreement and documents required under Section 1128, to the City Council for approval.
- (b) Once the final subdivision plat has been certified and the City Council approvals have been granted, it shall be recorded by the Planning and Development Director, or by the applicant with the Planning and Development Director's approval, with the Clerk of the Superior Court.
- (c) If recorded by the applicant, one copy of the recorded plat shall be filed by the applicant with the records of the Planning and Development Department, showing the map book, volume and page numbers where the plat is recorded.

1120.06 Revised Final Plat.

(a) Application for Approval of Final Plat Revisions.

The owner or developer of the subdivision shall file the survey of any proposed revision to a pre-recorded plat with the Planning and Development Director.

- (1) Proposed revisions to a recorded plat that alter or change in any way the street, utility or drainage layout, or the overall size of the original subdivision, shall be submitted as a new final plat application, in accordance with the requirements and procedures of Section 1120.04. Revised construction drawings, as applicable to the proposed changes, shall accompany the application.
- (2) If the subdivision is still 100 percent owned by the developer, the Planning and Development Director may administratively review and certify the revised final plat.
- (3) If any lots have been sold, the new lot owners must be informed of the changes, in writing, and their approval of the changes obtained by the owner or developer and submitted to the Planning and Development Director. If approval of all such owners is not obtained, the revised final plat shall be forwarded to the City Council for a public hearing prior to approval of the revised plat and notice of said public hearing shall be sent by mail to all such owners of record at least 15 days prior to the public hearing.
- (4) If the proposed revisions are limited to the correction of errors on the original plat and have no substantive effect on any lot that has been sold in the subdivision, the Planning and Development Director may administratively review and approve the revised final plat.

(b) Review, Approval and Recordation of Revised Final Plat.

Review, approval and recordation of the revised final plat shall follow the procedures and provisions of Sections 1120.04 and 1120.05, above.

Section 1121. Non-Subdivision Review Procedures.

1121.01 Pre-Application Conference.

Whenever any development of a single parcel of land (other than a subdivision or a one or two-family dwelling) is proposed to be made, the developer is encouraged to present to the Planning and Development Department preliminary documents and graphic exhibits to permit early evaluation of the developer's intentions and coordination with the Comprehensive Plan, this Development Code, Metropolitan River Protection Act, etc., and to inform and provide the developer with the necessary regulations in order to properly accomplish the proposed project.

1121.02 Concept Plan Approval.

- (a) Application for Concept Plan approval shall be submitted to the Planning and Development Department using an application form and in number of copies to be determined by the Planning and Development Director.
- (b) The Concept Plan shall include the entire property being developed. Properties which adjoin the subject property and which are under the same ownership or control as the subject property shall be so indicated. In such case that the developer elects not to submit a Concept Plan, then the developer may proceed directly with the submittal of Development Plans provided that the plans show the entire property proposed for development. In so doing, however, the developer assumes the risk of premature design and engineering expenses in the event that the City requires substantial changes in the plans.

- (c) Following Concept Plan approval, a clearing permit meeting the requirements of Section 1111.01(a), or a clearing and grubbing permit meeting the requirements of Section 1111.01(b), or a grading permit meeting the requirements of Section 1111.01(c) may be issued. Such permits must be consistent with an approved Certificate issued under the Metropolitan River Protection Act, if applicable.
- (d) Copies of the approved Concept Plan shall be provided to the Planning and Development Department for permanent record, in a number as determined by the Planning and Development Director.

1121.03 Site Development Plans Approval.

- (a) An application for Development Plan approval and issuance of a development permit shall be submitted to the Planning and Development Department using an application form and in number of copies as determined by the Planning and Development Director. The Development Plans may encompass only a portion of a property included within an approved Concept Plan; however, if no Concept Plan has been approved, the Development Plans shall include the entire property being developed and having the same zoning. The application shall include the Site Plan and construction drawings, as appropriate, as described in Division III of this Article. All construction drawings and other engineering data shall be prepared and sealed by a Professional Engineer or Landscape Architect currently registered in the State of Georgia, in accordance with the provisions of Georgia Law.
- (b) The Planning and Development Director shall indicate on a review copy of the drawings or in a written memorandum all comments related to compliance of the Development Plans with this Development Code, principles of good design, conditions of zoning approval, and the regulations of other departments and State agencies as appropriate. The Director shall have final staff authority to determine the applicability of all comments under this Development Code and conditions of zoning approval.
- (c) The developer shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the noted and written comments of the Planning and Development Director.
- (d) Deeds to lands dedicated to the City in fee simple, shall be submitted to the Planning and Development Director for recording.
- (e) Should an applicant disagree with the findings or final review comments of the Planning and Development Director or of any other City department, concluding that factual or interpretive errors have been made, the applicant may file an appeal under the provisions of Article 12.
- (f) When the Planning and Development Director has determined that the Site Plan and other Development Plans are in compliance with all applicable City regulations and requirements, and approval has been received from all other department and agencies having jurisdiction, he or she shall sign and date a statement of development approval (Section 1116.03(w)) stamped or printed on a reproducible copy of the Site Plan. Approved copies of the Site Plan and construction drawings shall be transmitted to the applicant and retained by the Planning and Development Department for its records.
- (g) Following the above, a Development Permit shall be issued at the developer's request to begin construction activities based on the approved Development Plans. A building permit may also be issued on the basis of the approved development permit under the provisions contained in this Development Code. However, a Certificate of Occupancy shall not be issued, until a Certificate

of Development Conformance for the project and a Development Performance and Maintenance Agreement, prepared in accordance with the requirements of Section 1127 and Section 1128, has been received by the Planning and Development Director.

1121.04 Certificate of Development Conformance Approval Process.

- (a) Final approval by the Planning and Development Director shall not be shown on the Certificate of Development Conformance until all requirements of these and other applicable regulations have been met, and the Director has received a properly completed request for Approval of Development Conformance and an executed Development Performance and Maintenance Agreement prepared in accordance with the requirements of Section 1127 and Section 1128.
- (b) The Director shall further determine that either:
 - (1) All improvements to the development required for approval of the Certificate of Development Conformance under the regulations of the City of Duluth have been completed in accordance with the appropriate specifications; or,
 - (2) All of the required improvements have been completed except final grassing, pavement topping, required landscaping, or sidewalks, in which case a performance guarantee meeting the requirements of Section 1130 shall have been filed by the developer with the Development Performance and Maintenance Agreement.
- (c) Payment for materials and installation of traffic controls and street name signs shall be made to the appropriate Gwinnett County department in accordance with their regulations prior to approval of the Certificate of Development Conformance. Payment of the cost of striping major thoroughfare or signalization, where required, if not completed or installed by the developer shall also be paid to the appropriate Gwinnett County department prior to approval of the Certificate of Development Conformance.
- (d) Once the Department has approved the Certificate of Development Conformance and all other affected departments and agencies of government as required have certified compliance, by signing the Route Sheet, the Director shall certify by his or her signature on the original of the Certificate of Development Conformance that all requirements of this Development Code and the conditions of zoning approval have been met. The Certificate of Development Conformance shall not be deemed approved until it has been signed by the Planning and Development Director and where use of septic tanks is proposed, by a duly authorized representative of the Gwinnett County Health Department.

Section 1122. Assignment of Names and Address.

1122.01 Subdivision or Development Names.

- (a) Proposed subdivision or development names must be reviewed and approved by Gwinnett County Department of Planning and Development prior to the issuance of a development permit. Names will be reviewed upon submission of the Preliminary Plat or Site Plan.
- (b) Proposed names shall not duplicate or too closely approximate, phonetically, the name of any other subdivision in Gwinnett County or its municipalities except for extensions of existing subdivisions or developments.
- (c) Subdivision and development names may be reserved if submitted and approved along with the Concept Plan or PUD Master Concept Plan for the project.

1122.02 Street Names.

- (a) Proposed street names must be reviewed and approved by the Gwinnett County Department of Planning and Development prior to approval of a Final Plat for recording. Street names may be reserved through approval of a Concept Plan, PUD Master Concept Plan or Preliminary Plat for the subdivision. Proposed names for private streets shall follow the same rules as for public streets.
- (b) Street names shall consist of a root name of the developer's choosing and a suffix designation ("Street", "Avenue", "Drive", etc.) and shall be followed by a quadrant suffix. Directional prefixes ("North", "South", etc.) and the prefixes "old" or "new" shall not be used.
- (c) A proposed street that is obviously in alignment with another already existing and named street shall bear the name of such existing street, unless this requirement is waived by the Gwinnett County Departments of Public Safety and Engineering or the Duluth Police Department.
- (d) Except within the same development, no proposed street name shall duplicate (be spelled the same or be phonetically the same) as an existing street name within Gwinnett County regardless of the use of such "Street", "Avenue", "Boulevard" "Drive", "Place", "Way", "Court" or however otherwise designated. In the same development, a root name may not occur more than twice.
- (e) All street root names and suffix designations are subject to the approval of the County. Obscene or otherwise unacceptable language, abbreviations, contractions, or initials may not be used.
- (f) Root names shall consist of no more than 13 characters including space, hyphens, etc. Letters not occurring in the English alphabet, and numerals, shall not be used.
- (g) All streets shall bear the proper quadrant suffix appropriate to its location within the City (i.e., NE, NW, SE and SW), as determined by Gwinnett County Traffic Engineering.

1122.03 Street Address Assignments.

- (a) A street address number must be assigned by Gwinnett County Planning and Development prior to issuance of a building permit. For any new structure proposed on a property which has not been assigned an address, a street number will be assigned upon confirmation or establishment of the property as a buildable lot of record under the requirements of these Regulations.
- (b) Subdivisions.

House numbers will be assigned by Gwinnett County Planning and Development after an Exemption Plat or Preliminary Plat is approved for the property. Submission of two copies of the approved plat is required. Block number assignments shall also be designated for abutting major street name signs at this time, if required.
- (c) Commercial/Industrial Projects or Buildings.
 - (1) Projects will be numbered by Gwinnett County Planning and Development after the developer submits the Site Plan for review.
 - (2) Apartment Projects.
 - (3) Projects will be numbered by Gwinnett County Planning and Development after the developer submits the Site Plan for development review. The overall development will be issued a single street address. The developer will be responsible for numbering/lettering of individual buildings and units.

(4) Condominium Projects.

Projects will be numbered by Gwinnett County Planning and Development after the developer submits the Site Plan for development review. Individual units shall be numbered consecutively if located along public or private streets. Units in the “stacked-flat” configuration shall use the same numbering approach as applies to an apartment project.

(d) The following numbering systems shall be used pursuant to U.S. Postal Service regulations:

- (1) Individual mailboxes for each dwelling unit: Each street within the project must be named.
- (2) Cluster box system - Centralized mailbox for entire project: One street name will serve to assign all house numbers for main delivery.

Section 1123. Developments of Regional Impact.

1123.01 Types of Approvals Covered.

The provisions of this Section apply to any type of official City action requested by a private party related to a development project, such as a rezoning or special use approval, special exception variance or hardship variance approval, approval of a subdivision or site development plan, issuance of a development permit or building permit, or hook-up to a public utility.

1123.02 Thresholds for Regional Review.

Any development project for which any City action is requested that meets or exceeds any of the development thresholds adopted by the Georgia Department of Community Affairs (DCA) shall be considered as qualified for review as a Development of Regional Impact (DRI).

1123.03 Process for DRI review.

(a) Submission to the Atlanta Regional Commission (ARC).

(1) First request for governmental action.

- a. Upon determination by the Planning and Development Director that a request for City approval qualifies for DRI review, the applicant shall provide such information as necessary for completion of the DRI review form (available from the Planning and Development Department or DCA).
- b. The completed DRI review form shall be submitted electronically by the Planning and Development Director to the Atlanta Regional Commission (ARC), the Georgia Regional Transportation Authority (GRTA) and DCA through the DCA web site.
- c. Once ARC has determined that the project is a DRI, the 30-day review period officially begins.
- d. Throughout the DRI process, the applicant shall coordinate with the Planning and Development Department and provide such additional information as may be needed to complete the DRI review process.

(2) Subsequent requests for governmental action.

Once the development project has been reviewed by ARC and the first governmental action has been taken, no further reviews by ARC will be required unless the project is substantially revised, as determined by ARC in consultation with the Planning and Development Director.

(b) Final Action by the City.

- (1) Review by the City of the development project may proceed during the DRI process, but no final action approving the project may be taken until the DRI process is completed.
- (2) Approval of the first request for governmental action by the City shall not be made on a Development of Regional Impact until:
 - a. The DRI Report has been received from ARC reflecting its public findings and comments, if any, and the City has had adequate time to consider the Report; or
 - b. Said report is not received within 30 days of official determination by ARC that the project is a DRI, or by the end of such time that DRI process extensions have been approved by ARC.

Section 1124. Payment of Fees.

- (a) Application filing and permit fees shall be as may be established from time-to-time by the City Council as provided in Article 13.
- (b) Application fees, if any, shall be submitted with the application and upon acceptance of said submission for review and consideration shall not be refundable. Failure to pay a required application fee shall cause the application to be returned to the applicant without acceptance for review or consideration by the City.
- (c) Permit fees, if any, shall be submitted as a prerequisite to issuance of the permit. Non-payment as a result of submission of a check having insufficient funds on account, or for any other reason, shall cause the permit to be voided and reissuance subject to penalty as may be established by the City Council.
- (d) Following the approval of development plans, and prior to authorization to begin construction, the developer shall pay to the City such required inspection, curb cut, or other fees as may be established from time-to-time by the City Council. Further, the developer shall pay fees such as sanitary sewer permit charges and other associated fees to the appropriate jurisdiction or agency. Such fees shall not be refundable following issuance of a Development Permit, except upon approval of the City Council.
- (e) Prior to approval of a Certificate of Development Conformance for a project, the developer shall provide to the Gwinnett County Department of Transportation payment of any and all fees for traffic control signs, street name signs, and street striping as shall be required by Gwinnett County.
- (f) Prior to approval of a Final Plat or Certificate of Occupancy, the developer shall provide to the Planning and Development Department such recording fees as shall be required by these Regulations or established from time-to-time by the City Council.

DIVISION V. DEVELOPMENT ACTIVITIES AND COMPLETION.

Section 1125. Initiation of Development Activities.

1125.01 Initial Activities Required.

Following the issuance of any permit authorizing grading on any site:

- (a) Required erosion control measures must be installed where practical by the developer and inspected and approved by the Planning and Development Department prior to actual grading or removal of vegetation. All control measures shall be in place as soon after the commencement of activities as possible and in coordination with the progress of the project.
- (b) Soil sedimentation facilities must be installed and operational prior to major grading operations.
- (c) Areas required to be undisturbed by this Development Code, conditions of zoning approval, Metropolitan River Protection Act or other ordinance or regulation shall be designated by survey stakes, flags, or other appropriate markings and shall be inspected and approved by the Department of Planning and Development prior to the commencement of any clearing or grading activities.

1125.02 Tree Protection Areas.

Prior to the initiation of land disturbance activities and throughout the clearing and grading process the following must be accomplished for any designated tree protection area in accordance with any approved Buffer and Landscape Plan or Tree Protection Plan for the property:

- (a) For those trees which are not to be removed, all protective fencing, staking, and any tree protection area signs shall be in place. These barriers must be maintained throughout the land disturbance process and should not be removed until landscaping is begun.
- (b) The tree protection areas shall not be utilized for storage of earth and other materials resulting from or used during the development process.
- (c) Construction site activities such as parking, materials storage, concrete washout, burning, etc. shall be arranged so as to prevent disturbances within the tree protection areas.

1125.03 Development Inspections.

Oral notification shall be made by the developer or contractor to the Planning and Development Department at least 24 hours prior to the need for an inspection of activity for each of the following phases as authorized by any permit for site work or development. Inspections shall be made by the Planning and Development Department, and passed prior to continuation of further activity or proceeding into new phases.

- (a) Prior to authorization for clearing or clearing and grubbing of the site or any portion thereof included under the permit, installation of required erosion control measures and designation of tree protection areas and other areas to remain undisturbed shall be inspected.
- (b) Prior to authorization for grading, installation of required erosion control measures and soil sedimentation facilities, and designation of tree protection areas and other areas to remain undisturbed, shall be inspected. Installation of slope stakes shall be required.
- (c) Upon completion of roadway grading, a Certificate shall be submitted to the appropriate Gwinnett County department certifying that the centerline of the road and the offset centerline of the water line are within 6 inches of those shown on the approved plans or realigned plan submittal. The Certificate shall be copied simultaneously to the Duluth Planning and Development Department for informational purposes only. Inspection and approval shall be required prior to trenching or continuation with sub-base preparation.
- (d) Upon completion of installation of storm drainage pipe, detention, or other stormwater facilities.

- (e) Prior to initiation of installation of sanitary sewer and appurtenances. This notification shall be made by the developer or contractor to the appropriate Gwinnett County department, and copied simultaneously to the Duluth Planning and Development Department for informational purposes only. Inspections may occur throughout the installation process.
- (f) Prior to initiation of installation of water lines and appurtenances. This notification shall be made by the developer or contractor to the appropriate Gwinnett County department, and copied simultaneously to the Duluth Planning and Development Department for informational purposes only. Inspections may occur throughout the installation process.
- (g) Curbing of roadways. Inspection should be requested before the forms have been set (if used). Roadway width will be spot checked by string line between curb stakes.
- (h) Sub-base or subgrade of streets. After compaction, the subgrade will be string-lined for depth and crown. The subgrade shall be roll tested and shall pass with no movement, to the satisfaction of the Planning and Development Department.
- (i) Street base. The base will be string-lined for depth and crown, and shall pass a roll test with no movement to the satisfaction of the Planning and Development Department.
- (j) Paving. A Planning and Development Department inspector shall be on site during the paving process to check consistency, depth, and workmanship. For asphalt paving, the temperature of the material will be spot-checked, and the roadways will be cored after completion to check thickness.

1125.04 Responsibility for Quality and Design.

The completion of inspections by the City of Duluth officials and employees and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the contractor or developer, nor imply or transfer acceptance of responsibility for project design or engineering from the professional corporation or individual under whose hand or supervision the plans were prepared.

1125.05 Stop Work Orders.

Work that is not authorized by an approved permit, or is not in conformance with the approved plans for the project, or is not in compliance with the provisions of this Development Code or any other adopted code, ordinance or regulation of the City of Duluth, shall be subject to immediate Stop Work Order by the Planning and Development Department. Work that proceeds without having received the necessary inspections of the Planning and Development Department or the appropriate Gwinnett County department, as applicable, shall be halted until all inspections are completed.

1125.06 Stabilization for Erosion Control.

If for any reason a clearing and grubbing, grading, or development permit expires after land disturbance activities have commenced, the developer shall be responsible for stabilizing the site for erosion control, under the direction of the Planning and Development Department.

Section 1126. Field changes.

1126.01 Field Change; Defined.

A "field change" as used in this Section is official approval for a developer or builder to deviate from approved development construction plans or architectural building plans necessitated by unanticipated conditions discovered during the construction process.

1126.02 Field Change; Approval.

- (a) Authority to Approve Field Changes.
 - (1) Field changes may be approved only by the Director of the Duluth or Gwinnett County department responsible for plan review and approval related to the improvement for which the change is proposed. Such approvals are to be coordinated between the affected departments as appropriate.
 - (2) Administrative approval shall not be given for any change that would not have been approved as part of the original permit if the unanticipated conditions had been known.
 - a. A change that would be inconsistent with the requirements of this Development Code must be considered as a variance under the provisions of the Appeals Article of this Development Code.
 - b. Consistency with all other codes, regulations and ordinances is required unless an appeal or waiver is granted under the provisions of such applicable code, regulation or ordinance.
 - (3) Administrative approval shall not be given for any change that is inconsistent with the conditions of zoning approval imposed by the City Council through the rezoning or special use approval process. Such a change can only be considered and approved as a change in zoning conditions under Section 1104.04.
- (b) Process for Approval of Field changes.
 - (1) A request for a field change shall be made to the Director of the Department responsible for plan review and approval related to the improvement for which the change is proposed (i.e., the “responsible Director”).
 - (2) Revised development construction plans or architectural building plans, as applicable, must be submitted with the proposed change clearly indicated.
 - (3) If the revised plans relate to a change under this Development Code, the request will be acted upon within two full business days of receipt of the plans, and either:
 - a. There are no comments and the change is approved by the Duluth Planning and Development Director;
 - b. Plan review comments are forwarded and resubmittal for further review is required;
 - c. The information submitted is inadequate to determine consistency with regulations and resubmittal is required; or
 - d. The change is approved by the Duluth Planning and Development Director subject to attached plan review comments or conditions of approval.
 - (4) If the revised plans relate to a change under the codes or regulations of Gwinnett County, the request will be acted upon by the responsible County Director in accordance with the County’s procedures.
 - (5) The field change, as ultimately approved, shall be documented by the developer or builder on revised development construction plans or architectural building plans, as applicable, and distributed to the appropriate departments of both the City and the County.

1126.03 Emergency Field Change Requests.

In the case of an emergency field change request, the responsible Director, with consideration to or oral comments from other potentially affected departments, may provisionally approve the proposed field change or provisionally approve it with modification. The provisions for such approval are:

- (a) The field change subsequently shall be formally requested, documented and reviewed under the process set forth under 1126.02(b).
- (b) The developer or builder requesting the field change accepts all responsibility and liability that may result from emergency approval relative to requirements resulting from the formal review.
- (c) All requirements resulting from the formal review shall be implemented by the developer or builder that requested the field change in a timely manner.
- (d) The field change, as ultimately approved through the formal review, shall be documented on revised development construction plans or architectural building plans, as applicable, and distributed to the appropriate departments of both the City and the County.

Section 1127. Approval of Development Conformance.**1127.01 Pre-requisite to Final Plat or Certificate of Occupancy Approval.**

- (a) Approval of a Certificate of Development Conformance for any part of a project included in a development permit shall be a prerequisite to the approval of a final plat for a subdivision or issuance of a certificate of occupancy for any part of a project included in a development permit, except for single-family and two-family residential structures.
- (b) The approval shall reflect the owner's certification that all site work and construction has been accomplished according to the terms of approved plans and permits, and that all facilities or improvements required by this Development Code are in compliance with appropriate standards, regulations, codes and ordinances. Such approval shall be revoked in cases of fraud or whenever unauthorized changes are made to the site without the benefit of required permits.

1127.02 Submission Requirements.

- (a) Upon completion of the project or a phase of the project as authorized for construction by the development permit, the owner shall file a Certificate of Development Conformance with the Planning and Development Director along with record "as-built" drawings of all stormwater detention facilities and modifications to the limits of the 100-year floodplain (if any) and an "as-built" hydrology study for the project with the actual parameters from the record drawing of the detention facilities, along with all streets intended for dedication to the public or to be retained as private facilities.
- (b) A record "as-built" drawing of the water system and sanitary sewer improvements, if any, shall also be prepared, separately, and submitted to the appropriate Gwinnett County department in accordance with their regulations, with a copy filed simultaneously with the Planning and Development Director.
- (c) The Certificate of Development Conformance shall be accompanied by a Development Performance and Maintenance Agreement completed in draft form. If the owner is a corporation, the documents shall be signed by the President or other authorized officer, and either the corporate secretary shall attest to the signature and affix the corporate seal, or a Certificate of Corporate Resolution shall also be submitted. See Section 1131 for examples of such instruments.

1127.03 Approval

Following final inspection and approval of all record “as-built” drawings, the Planning and Development Director shall approve the Certificate of Development Conformance.

Section 1128. Project Closeout and Continuing Maintenance.**1128.01 Development Performance and Maintenance Agreement.**

Based upon the approved Certificate of Development Conformance, the owner shall file a final Development Performance and Maintenance Agreement with the Planning and Development Director, along with any required Certificate of Corporate Resolution and performance or maintenance surety, as a prerequisite to the approval of a final plat for a subdivision or issuance of a certificate of occupancy for any part of a project included in the development permit, except for single-family and two-family residential structures. The Development Performance and Maintenance Agreement (see Section 1131 for an example) shall include the following:

- (a) Performance: If applicable, agreement to complete required improvements yet to be completed (e.g., grassing, topping, sidewalks, required landscaping) by a date certain, and to provide performance surety to guarantee such completion in accordance with Section 1130. Final landscaping shall be provided in accordance with a schedule acceptable to the Planning and Development Department. The developer may be allowed up to nine months in which to finish the other designated improvements, after the date of approval of the Certificate of Development Conformance.
- (b) Maintenance: Agreement to maintain and repair or restore as necessary all street, drainage and landscaping improvements as required by this Development Code, whether public or private, and to provide maintenance surety to guarantee such maintenance in accordance with Section 1129. Repairs shall be made for any deficiencies identified within the maintenance period or the maintenance surety shall be called to complete same.
- (c) Indemnification of the City against all liability for damages arising as a result of errors or omissions in the design or construction of the development for a period of twenty years. If liability is subsequently assigned or transferred to a successor in title or other person, a copy of such legal instrument shall be filed with the Superior Court of Gwinnett County, Georgia. Failure to record such instrument shall not affect the assignment of responsibility for liability indemnification.

Section 1129. Maintenance Warranty.

The owner shall be responsible for the full cost of maintenance after completion of all improvements required by this Development Code, whether public or private, in accordance with the Development Performance and Maintenance Agreement for the project and the provisions of this Section.

1129.01 Maintenance Surety Required.

- (a) Prior to approval of a final subdivision plat, or issuance of a certificate of occupancy for a multi-family or nonresidential development project, a maintenance warranty in a form of surety as described in this Section is required for all stormwater detention facilities and for all street and stormwater drainage improvements shown on the record “as-built” surveys, and for all landscaping specifically required by this Development Code.
- (b) The provision of such surety shall not limit the owner’s responsibility for the full cost of maintenance, repair or restoration during the maintenance period of all improvements required by this

Development Code and included in the pertinent Development Performance and Maintenance Agreement.

1129.02 Maintenance Period.

- (a) Start date: For a subdivision, the start of the maintenance period shall be the date of final subdivision plat approval. For a multi-family or nonresidential development project, the start of the maintenance period shall be the date of issuance of the certificate of occupancy.
- (b) The maintenance period shall extend for 18 calendar months from the start date, above, or from the date of completion and City approval of the last deferred improvement covered by a Performance Guarantee, whichever occurs later
- (c) The maintenance period will be extended for staged or phased developments in those cases that meet the provisions of Section 1129.05.

1129.03 Maintenance Surety Standards.

- (a) For continuing maintenance of the stormwater detention facilities and for maintenance of the street and stormwater drainage improvements, the following shall apply:
 - (1) The maintenance surety shall be in the form of a valid irrevocable letter of credit issued by a bank or other reputable financial institution chartered to do business in the State of Georgia. Such letter of credit must comply with the requirements of Section 1129.04.
 - (2) The value of the maintenance surety shall be equal to 33% of the cost of construction of the stormwater detention, street and stormwater drainage improvements shown on the as-built surveys and as estimated for deferred improvements under Section 1130.02. Copies of contractor agreements or actual invoices paid, or as otherwise determined by the City Engineer, shall evidence the cost of construction.
 - (3) The maintenance surety shall include the estimated cost for maintenance of continuing operations of the stormwater drainage and detention pond facilities during the maintenance period. Maintenance shall include repair of erosion controls, removal of silt from detention ponds and other items pertinent to the continuing operation of the stormwater drainage system for the development.
- (b) Maintenance surety for the sanitary sewer facilities and water system improvements is required separately by Gwinnett County in accordance with its regulations.
- (c) A maintenance surety for continued compliance with the buffer and landscaping requirements of this Development Code, as applicable, shall be in the form of a landscaping warranty. The landscaping warranty shall provide for the replacement or restoration of any or all plantings and landscape material for a period of 12 calendar months from the date of City approval following installation of such plantings and landscape material. Such warranty shall be in a form acceptable to the City (see Section 1131 for an example).
- (d) Repairs shall be made for any deficiencies identified in the covered improvements within the maintenance period or the surety shall be called by the City to complete same.

1129.04 Letter of Credit for Maintenance Surety.

The letter of credit shall be in a form acceptable to the City (see Section 1131 for an example). The executed letter of credit shall be submitted with the final Development Performance and Maintenance Agreement and shall certify the following:

- (a) That the issuer guarantees funds as an assignment in an amount no less than the total amount determined in accordance with Section 1129.03.
- (b) That the issuer guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
- (c) That if the owner fails to maintain, repair, replace or restore each of the specified improvements within the maintenance period, upon written demand of the City Engineer the issuer will pay to the City immediately, and without further action, the full amount of the total assignment stated in the letter of credit (less the actual cost of covered improvements expended as of the date of demand and accepted by the City as to reasonableness).
- (d) That the letter of credit shall not be terminated less than 60 calendar days after the date of the end of the maintenance period as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the Planning and Development Director.

1129.05 Staged or Phased Developments.

- (a) In cases where a second phase or any other later stage of a subdivision or site development project will utilize the streets or drainage facilities provided in the original or an earlier phase of the project, the maintenance surety for the second or later phase of the project shall include the streets or drainage facilities located in the original or earlier phase of the project for the duration of the maintenance period of the second or later phase of the project.
- (b) In cases where a second phase or any other later stage of a subdivision or site development project will utilize the same streets or drainage facilities as those covered by an active maintenance surety for the original or earlier phase of the project, said maintenance surety for the original or earlier phase of the project shall be extended in amount and duration to continue coverage of the original or earlier phase throughout the maintenance period of the second or later phase of the project.

1129.06 Release of Maintenance Warranty.

- (a) Prior to the end of the maintenance period, the City Engineer will inspect the improvements covered by the maintenance warranty and identify any repairs, replacement or restoration needed to maintain or return the improvements to full compliance with the “as-built” standards and requirements for such improvements required by this Development Code.
- (b) The developer shall undertake and complete all maintenance, repairs, replacement or restoration identified in paragraph (a) of this subsection in a timely manner.
- (c) When the warranty work identified in paragraph (a) of this subsection has been completed by the developer and approved by the City Engineer for conformity with this Development Code, the maintenance warranty shall be released by the Planning and Development Director, and written notice of such release shall be provided to the issuer of the letter of credit.
- (d) The maintenance surety shall be automatically extended by the issuer beyond the expiration date stated in such surety on a month-to-month basis if all inspections of warranty work required by paragraph (a) of this subsection have not been completed to the satisfaction of the City Engineer, prior to said expiration date stated in the maintenance surety, unless written demand for nonperformance is received by the issuer in accordance with Section 1130.04.

Section 1130. Performance Guarantee.

As a prerequisite to approval of a final plat for a subdivision or a certificate of occupancy for a multi-family or nonresidential development project, completion of certain improvements required under this Development Code may be deferred in accordance with the Development Performance and Maintenance Agreement for the project and the provisions of this Section.

1130.01 Posting Performance Guarantee.

- (a) The applicant may post a performance guarantee for the construction of certain deferred improvements required under this Development Code as an attachment to the Development Performance and Maintenance Agreement and of a type acceptable to the City Council.
- (b) Improvements eligible for deferral under performance surety are limited to final topping of streets, installation of sidewalks, installation of plantings and landscape materials, and grassing of street shoulders and easements, as applicable to the project. All other improvements required by this Development Code shall have been completed by the developer, inspected and approved by the City, and covered by the Certificate of Development Conformance for the project.
- (c) Such performance guarantee shall comply with all statutory requirements and shall be satisfactory to the City as to form, sufficiency and manner of execution. (See Section 1131 for examples.) The period within which required improvements must be completed shall be specified in the Development Performance and Maintenance Agreement, and shall not exceed nine months from the date of approval of the Certificate of Development Conformance unless an extension of an additional three calendar months has been granted by the Planning and Development Director.
- (d) The expiration date of the performance guarantee shall be no less than 60 days following the date established in the Development Performance and Maintenance Agreement for completion of the deferred improvements. "Completion of the improvements" shall mean the final inspection and approval by the City Engineer of the improvements in accordance with the design and construction standards of this Development Code.
- (e) Such guarantee shall be approved by the City Council as to amount and type of surety and conditions satisfactory to the City Council. The City Council may subsequently, upon proof of difficulty, approve extension of the completion date set forth in such guarantee for a maximum period of up to three additional months.

1130.02 Cost of Improvements.

The cost of the improvements to be completed shall be established based on a properly executed and binding contract between the developer and the contractor selected to perform the work, and shall be supported by detailed cost estimates prepared by the contractor or a qualified design professional. Said contract and cost estimates shall be determined by the City Engineer to be sufficient to cover the full cost of design, surveying, construction, inspection, and preparation of as-built surveys, construction management and all other costs of the improvements.

1130.03 Restrictions Pending Completion of Improvements.

- (a) No building permit shall be issued on any lot until continuous paved road access to the lot from the public road system has been established in accordance with the provisions of this Development Code. "Established" means having received final inspection and approval by the City Engi-

neer of the road in accordance with the design and construction standards of this Development Code.

- (b) For subdivisions and development projects that are staged in multiple phases, each phase must have continuous paved road access from the public road system to the boundary of the phase in accordance with the provisions of this Development Code. No phase can be approved for final plat recordation if its access depends on improvements that have not been completed in an earlier phase.

1130.04 Failure to Complete Improvements.

- (a) In those cases where a performance guarantee has been posted and required improvements have either not been installed within the terms of such performance guarantee or have not progressed in a timely manner such that completion within the time period of the guarantee can be achieved, the City Engineer may thereupon declare the guarantee to be in default and require that the issuer of the performance guarantee turn over to the City such funds that are due and payable under the terms of the guarantee.
- (b) A default also shall be deemed to have occurred on the part of the owner if, in the sole judgment of the City Engineer, the owner has:
 - (1) Abandoned or unnecessarily delayed the performance of its obligations under the pertinent Development Performance and Maintenance Agreement; or,
 - (2) Renounced or repudiated its obligations under the said Agreement; or,
 - (3) Clearly demonstrated through insolvency, delay or otherwise, that its obligations under the said Agreement cannot be completed within the time allotted under the said Agreement; or,
 - (4) Has not complied with or is not in compliance with the minimum standards of this Unified Development Code for any one or more of the subject improvements, or,
 - (5) Transferred ownership of any portion of the project to a third party without assignment of the remaining responsibilities hereunder; or,
 - (6) Caused or experienced any damage to new or previously existing improvements creating an emergency situation.

1130.05 Return of Guarantee.

When the improvements have been completed, and inspected and approved by the City Engineer for conformity with this Development Code, the performance guarantee shall be released by the Planning and Development Director.

1130.06 Types of Acceptable Performance Guarantees.

- (a) Letter of Credit.

The developer shall provide a valid irrevocable letter of credit from a bank or other reputable financial institution chartered to do business in the State of Georgia, for approval by the City Council. The letter of credit shall be in a form acceptable to the City (see Section 1131 for an example). The letter of credit shall certify the following:

- (1) That the issuer guarantees funds in an amount equal to 110% of the cost, as established under Section 1130.02, of completing all required improvements.

- (2) That the issuer guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
 - (3) That if the developer fails to satisfactorily complete the specified improvements within the required period or is otherwise in default under Section 1130.04, upon written demand of the City Engineer the issuer will pay to the City immediately, and without further action, the full amount of the total assignment stated in the letter of credit, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the City as to reasonableness.
 - (4) That the letter of credit shall not be terminated less than 60 calendar days after the date of performance completion as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the Planning and Development Director.
- (b) Performance or Surety Bond.

If a developer prefers not to post an irrevocable letter of credit, the City Council may allow the developer to post a performance bond as follows:

- (1) A performance bond must be provided by a construction bonding or insurance company authorized to do business in the State of Georgia.
- (2) The letter of credit shall be in a form acceptable to the City (see Section 1131 for an example).
- (3) A performance bond shall certify the following:
 - a. That the bonding or insurance company guarantees funds in an amount equal to 150% of the cost, as established under Section 1130.02, of completing all required improvements.
 - b. That the bonding or insurance company guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
 - c. That if the developer fails to complete the specified improvements within the required period or is otherwise in default under Section 1130.04, upon written demand of the City Engineer the bonding or insurance company will pay to the City immediately, and without further action, the full amount of the limit of insurance stated in the bond, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the City as to reasonableness.
- (4) That the bond shall not be terminated less than 60 calendar days after the date of performance completion as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the Planning and Development Director.

Section 1131. Example Instruments Relating to Improvement Guarantees.

The following pages present examples of forms, agreements, letters and warranties discussed above. Such instruments should be modified as appropriate for a particular project but must address all provisions required by this Development Code.

CERTIFICATE OF DEVELOPMENT CONFORMANCE

TO: DULUTH PLANNING AND DEVELOPMENT DEPARTMENT

DEVELOPMENT NAME: _____

DEVELOPMENT PERMIT NUMBER: _____ LOCATION: _____

PHASE SUBMITTED FOR FINAL PLATTING OR DEVELOPMENT APPROVAL: _____

Forwarded herewith are the record "as-built" drawings, prepared by a Registered Land Surveyor, which include all stormwater detention facilities and approved modifications to the 100-year floodplain (if any), and the "as-built" condition of all streets and drainage structures authorized for construction under the Development Permit first noted above. This is to request final inspection and approval of this Certificate of Development Conformance.

THIS IS TO CERTIFY that all site work or construction authorized under the Development Permit first noted above, including:

- a. clearing, grubbing, grading, and installation of soil erosion and stormwater detention facilities as required under said permit;
- b. the location of structures, access, parking, or loading areas or other private improvements as approved under said permit;
- c. the installation and planting of required landscaping, trees or other plant material to satisfy buffer or other landscape regulations as required under said permit; and
- d. all facilities, including stormwater drainage and road improvements, intended for maintenance or dedication to the City of Duluth, Georgia;

are in compliance with all plans, specifications, and other conditions approved under the Development Permit and all applicable standards, regulations, codes and ordinances adopted by the City of Duluth as may have been amended by variance or other relief provided through formal appeal procedures for the subject property, with the sole exception of those improvements so described in the attached DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT.

This is also to certify that all monies due to third parties for such work authorized for construction under the Development Permit first noted above have been paid (or if not will be the responsibility of the Owner) and that the improvements are free and clear of any liens or encumbrances and that any liens or encumbrances subsequently filed on such facilities and improvements covered herein shall be the sole responsibility of the Owner.

Date_____
Owner (Print Name of Corporation or entity)_____
ATTEST:

Corporate Secretary (affix Corporate Seal), or
Notary Public (attach Certificate of Corporate Resolution)

My commission expires:

Signature_____
Name (of individual signing above)

Address

Address

Telephone number

The record "as-built" drawings were prepared and sealed by:

REGISTERED. LAND SURVEYOR

Reg. No.

Date of Expiration

Final Inspection has been completed and APPROVAL IS RECOMMENDED by:

City Engineer

Date

CERTIFICATE OF DEVELOPMENT CONFORMANCE
APPROVED

Director of Planning and Development

Date

NOTE: After the date of this approval, alteration of the site, the roads, stormwater drainage facilities or other public structures not in accordance with the record "as-built" drawings submitted with the Certificate of Development Conformance and with the Development Permit first noted above or a subsequently approved Development Permit, shall without further provision immediately nullify this approval and cause this document to be NULL AND VOID.

DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT

TO: DULUTH PLANNING AND DEVELOPMENT DEPARTMENT

DEVELOPMENT NAME: _____

DEVELOPMENT PERMIT NUMBER: _____ LOCATION: _____

PHASE SUBMITTED FOR FINAL PLATTING OR DEVELOPMENT APPROVAL: _____

A final inspection of this Development [Phase] has been completed and the Certificate of Development Conformance has been approved and accepted by the Director of Planning and Development. This is to provide assurance that the below-signed Owner of this development agrees to the following as a condition precedent to the approval of any applicable Final Plat for a subdivision or the issuance of any Certificate of Occupancy for any site development project.

1. PERFORMANCE

- a. The topping course on all streets, as required by the Duluth Unified Development Code, shall be completed on or before _____, 20____, said date being no more than nine calendar months from the date of Certificate of Development Conformance approval.
- b. The installation of sidewalks, as required by the Duluth Unified Development Code, shall be completed on or before _____, 20____, said date being no more than nine calendar months from the date of Certificate of Development Conformance approval.
- c. Final landscaping, as shown on the approved Buffer and Landscape Plan or as required by the Duluth Unified Development Code, as applicable, shall be completed on or before _____, 20____, said date being no more than nine calendar months from the date of Certificate of Development Conformance approval.
- d. All street shoulders and all easements shall be grassed, as required by the Duluth Unified Development Code, and shall be completed on or before _____, 20____, said date being no more than nine calendar months from the date of Certificate of Development Conformance approval.

2. PERFORMANCE SURETY

In guarantee of the faithful completion of all improvements listed under Section 1, PERFORMANCE, the Owner agrees to furnish to the City a letter or letters of credit or other acceptable security with good and sufficient surety acceptable to the City in the following sums representing 110% of the estimated costs, as approved by the City Engineer, for the specific type of surety provided, as required by the Unified Development Code of Duluth, Georgia:

- a. \$ _____, representing 110% of the estimated cost of completing the final street topping, [for those streets identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule A]; and,
- b. \$ _____, representing 110% of the estimated cost of completing the construction of all sidewalks, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule B]; and,
- c. \$ _____, representing 110% of the estimated cost of materials, and other attendant costs incidental to the installation of the final landscaping, [as identified on the approved Buffer and Landscape Plan] [as listed as follows: _____] [as attached hereto on Schedule C]; and,
- d. \$ _____, representing 110% of the estimated cost of grassing all street shoulders and easements, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule D].

The Owner further agrees and acknowledges that, upon completion of the work required under Section 1, PERFORMANCE, all monies due to third parties for such work will have been paid (or if not will be the responsibility of

the Owner), that the improvements will be free and clear of any liens or encumbrances and that any liens or encumbrances subsequently filed on such facilities and improvements covered herein shall be the sole responsibility of the Owner.

A default in the Performance Surety shall be deemed to have occurred on the part of the Owner, if the Owner shall fail to complete the subject improvements within the time set forth under Section 1, PERFORMANCE, or any extensions thereof; or, prior to the expiration of such period, if in the sole judgment of the City, the Owner has:

- (1) Abandoned or unnecessarily delayed the performance of its obligations under the Agreement; or,
- (2) Renounced or repudiated its obligations under the Agreement; or,
- (3) Clearly demonstrated through insolvency, delay or otherwise, that its obligations under the Agreement cannot be completed within the time allotted under the Agreement; or,
- (4) Not complied with or is not in compliance with the minimum standards of the Duluth Unified Development Code, for any one or more of the subject improvements, or
- (5) Transferred ownership of any portion of the project to a third party without assignment of the remaining responsibilities hereunder; or
- (6) Caused or experienced any damage to new or previously existing improvements creating an emergency situation.

3. MAINTENANCE

a. Maintenance Period.

The Owner hereby warrants to the City that all stormwater detention facilities and all street improvements (including but not limited to the street pavement, base, sidewalks, sub-grades, cuts, fills, shoulders, grassing and traffic signs), stormwater drainage facilities, and required landscaping within this Development [Phase] shall be repaired, replaced or restored as necessary to maintain compliance with the standards and requirements of the Duluth Unified Development Code in force as of the date of this Agreement. This warranty shall begin on the date of approval of the accompanying CERTIFICATE OF DEVELOPMENT CONFORMANCE, and shall continue in full force and effect for no fewer than 18 calendar months after said approval date or the last completion date of all improvements included under Section 1, PERFORMANCE, whichever last occurs, unless extended under paragraph b of this Section 3.

b. Extension of Maintenance Period.

In the event that a second phase or any other later stage of the project will utilize the same streets or drainage facilities as those covered by this Development Performance and Maintenance Agreement, the maintenance warranty provided by the Owner under paragraph a of this Section 3 and the maintenance surety provided under Section 4, MAINTENANCE SURETY, below, shall be extended automatically in duration and amount, in order to continue the maintenance guarantee of the street and drainage improvements covered herein throughout the maintenance period of the second or later phase of the project.

4. MAINTENANCE SURETY

a. Street Improvements and Drainage Facilities.

The Owner agrees to furnish to the City a letter or letters of credit with good and sufficient surety acceptable to the City in the sum of \$ _____, representing 33% of the construction cost of the street improvements and drainage facilities, in guarantee of the faithful performance of the maintenance required under Section 3, MAINTENANCE, above. The stormwater detention facilities, street pavement, base, sidewalks, sub-grades, cuts, fills, shoulders, grassing, traffic signs and drainage facilities in the development must be properly maintained and free from faults in design, materials and workmanship.

b. Landscaping.

The Owner agrees to furnish the City a Warranty Agreement for Required Landscaping in guarantee of the faithful maintenance required under Section 3, MAINTENANCE, above and for the replacement or restoration of plantings and landscape material as needed to maintain compliance with the buffer and landscaping requirements of the Duluth Unified Development Code, as applicable to the project.

c. Limitation of Owner's responsibility.

It is agreed that the Owner shall be responsible for the full cost of maintenance after completion of all improvements covered by this Development Performance and Maintenance Agreement without any limitation established by the amount of maintenance surety provided under this Section 4.

5. INDEMNIFICATION

The Owner hereby agrees to indemnify the City and hold the City harmless from any and all damages which the City may suffer and from any and all liability, claims including interest thereon, demands, attorney's fees and costs of defense, or judgment against it, arising from errors or omissions in the design or construction of the development or from the effects of stormwater flows onto, from or across any and all lands as a result of the development, and Owner expressly agrees to defend against any claims brought or actions filed against the City where such claim or action involves in whole or in part, the subject of the indemnity contained herein whether such claims or actions are rightfully or wrongfully brought or filed. This indemnification shall commence upon the date of this Agreement and shall continue in full force and effect for a period of 20 years thereafter.

6. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this agreement shall be declared or otherwise adjudged unconstitutional or void, the validity of the remaining portions of this agreement shall not be affected thereby, it being the intent of the City of Duluth in adopting this agreement that no portion or provision of this agreement shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase or provision of this agreement.

7. ASSIGNMENT OF LIABILITY

The Owner hereby agrees that any assignment or transfer of the provisions of Section 5, INDEMNIFICATION, above, in whole or in part, to any successor in title or other person, shall be recorded with the Clerk of the Superior Court of Gwinnett County and a copy of said legal instrument, as recorded, shall be filed with the Duluth Planning and Development Department.

Date

Owner (Print Name of Corporation or entity)

ATTEST:

Signature

Corporate Secretary (affix Corporate Seal), or
Notary Public (attach Certificate of Corporate Reso-
lution)

Name (of individual signing above)

My commission expires:

Address

Telephone number

DEVELOPMENT AND MAINTENANCE AGREE-
MENT APPROVED

Director of Planning and Development

Mayor

Date

CERTIFICATE OF CORPORATE RESOLUTION

(PREPARE ON COMPANY LETTERHEAD)

I, _____, certify the following:

That I am the duly elected and authorized Secretary of _____ (hereinafter referred to as the "corporation"), a corporation organized and incorporated to do business under the laws of the State of _____;

That said corporation has, through lawful resolution of the Board of Directors of the corporation, duly authorized and directed _____, in his official capacity as _____ of the corporation, to enter into and execute the following described document(s) with the City of Duluth, Georgia, for the _____ development project and such phase as named thereon, in accordance with the requirements of the Duluth Unified Development Code:

(*List all that apply*) Certificate of Development Conformance
Development Performance and Maintenance Agreement
Letter of Credit
Performance Bond
Warranty Agreement for Required Landscaping
Other : _____

That the foregoing resolution of the Board of Directors has not been rescinded, modified, amended or otherwise changed in any way since the adoption thereof, and is in full force and effect on the date hereof.

IN WITNESS WHEREOF, I have set my hand and corporate seal;

This the ____ day of _____, 20____.

_____ (CORPORATE SEAL)

Signature of Secretary

Signature of Notary Public

My commission expires: _____

SURETY AGREEMENT FOR MAINTENANCE LETTER OF CREDIT

(MUST BE PRINTED ON LOCAL BANK LETTERHEAD)

DATE: _____

SUBJECT: SURETY AGREEMENT FOR MAINTENANCE WARRANTY

DEVELOPMENT NAME: _____

DEVELOPMENT PERMIT NUMBER: _____ LOCATION: _____

PHASE COVERED BY THIS WARRANTY: _____

SUBJECT IMPROVEMENTS: As specifically identified and described as follows:

All stormwater detention facilities and all street improvements (including but not limited to the street pavement, base, sidewalks, sub-grades, cuts, fills, shoulders, grassing and traffic signs), and stormwater drainage facilities [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule A]; and,

Required landscaping [as identified on the approved Buffer and Landscape Plan] [as listed as follows: _____] [as attached hereto as Schedule B].

To the MAYOR AND CITY COUNCIL of the City of Duluth:

This is to advise that _____, as Issuer, is holding at the request of _____, as Principal, the total amount of \$ _____ as an assignment that the subject improvements indicated above will be maintained in accordance with the standards and requirements of the Unified Development Code of the City of Duluth, Georgia, and further that this money will not be released until such time that we are notified by an authorized agent of the City of Duluth Mayor and City Council that the subject improvements have been properly and satisfactorily maintained and that any repairs, replacements, restoration or other work required by the City to return any part of the improvements to the applicable standards required by the Unified Development Code have been completed and accepted by the City, as evidenced by the return of this letter of credit with such release signed and dated by the authorized agent of the Mayor and City Council of the City of Duluth, below.

This is also to advise that if the Principal should fail to maintain the subject improvements in accordance with the standards and requirements of said Unified Development Code to the satisfaction of the City, upon written notification from the responsible official of the City of Duluth, this party as Insurer will pay to the City of Duluth immediately, and without further action, the total amount of the assignment indicated above (less the actual cost of covered improvements expended as of the date of demand and accepted by the City as to reasonableness); provided, however, the amount is not to exceed the total amount held as an assignment.

This is also to advise that the Issuer guarantees that any liens or encumbrances that exist or may be placed on the subject improvements will not become the responsibility of the City under any circumstances, and that any such liens or encumbrances shall be satisfied by the Principal to the satisfaction of the Insurer prior to the release of this letter of credit by the City.

It is also agreed that this letter of credit shall not be terminated less than 60 calendar days after the date of the end of the maintenance period as established in said Unified Development Code, and that this letter of credit may not be withdrawn or reduced in amount and will be automatically renewed in 30-day increments until released by the authorized agent of the Mayor and City Council of the City of Duluth.

Date

Signature

ATTEST: Notary Public

Printed Name

My commission expires:

Title

APPROVED BY THE DULUTH MAYOR AND CITY COUNCIL

Clerk to the Mayor and City Council

Mayor

Date

Final Inspection has been completed and AP-
PROVAL IS RECOMMENDED by:

City Engineer

Date

RELEASE OF MAINTENANCE SURETY

Director of Planning and Development

Date

SURETY AGREEMENT FOR PERFORMANCE LETTER OF CREDIT

(MUST BE PRINTED ON LOCAL BANK LETTERHEAD)

DATE: _____

SUBJECT: SURETY AGREEMENT FOR PERFORMANCE GUARANTEE

DEVELOPMENT NAME: _____

DEVELOPMENT PERMIT NUMBER: _____ LOCATION: _____

PHASE SUBMITTED FOR FINAL PLATTING OR DEVELOPMENT APPROVAL: _____

SUBJECT IMPROVEMENTS: As specifically identified and described as follows:

Final street topping, [for those streets identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule A]; and,

The construction of all sidewalks, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule B]; and,

The installation of the final landscaping, [as identified on the approved Buffer and Landscape Plan] [as listed as follows: _____] [as attached hereto on Schedule C]; and,

Grassing all street shoulders and easements, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule D].

To the MAYOR AND CITY COUNCIL of the City of Duluth:

This is to advise that _____, as Issuer, is holding at the request of _____, as Principal, the total amount of \$ _____ as an assignment that the subject improvements indicated above will be constructed and completed in accordance with the standards and requirements of the Unified Development Code of the City of Duluth, Georgia, and further that this money will not be released until such time that we are notified by the City of Duluth that the subject improvements have been properly and satisfactorily completed and accepted by the City, as evidenced by the return of this letter of credit with such release signed and dated by the authorized agent of the Mayor and City Council of the City of Duluth, below.

This is also to advise that if the Principal should fail to construct and complete the subject improvements in accordance with the standards and requirements of said Unified Development Code, upon written notification from the responsible official of the City of Duluth, this party as Surety will pay to the City of Duluth immediately, and without further action, the total amount of the assignment indicated above (less the actual cost of covered improvements expended as of the date of demand and accepted by the City as to reasonableness); provided, however, the amount is not to exceed the total amount held as an assignment.

This is also to advise that the Issuer guarantees that any liens or encumbrances that exist or may be placed on the subject improvements will not become the responsibility of the City under any circumstances, and that any such liens or encumbrances shall be satisfied by the Principal to the satisfaction of the Insurer prior to the release of this letter of credit by the City.

It is also agreed that this letter of credit shall not be terminated less than 60 calendar days after the date of the end of the performance period as established in said Unified Development Code, and that this letter of credit may not be withdrawn or reduced in amount and will be automatically renewed in 30-day increments until released by the authorized agent of the Mayor and City Council of the City of Duluth.

Date

Signature

ATTEST: Notary Public

Typed Name

My commission expires:

Title

APPROVED BY THE DULUTH MAYOR AND CITY COUNCIL

Clerk to the Mayor and City Council

Mayor

Date

Final Inspection has been completed and AP-
PROVAL IS RECOMMENDED by:

City Engineer

Date

RELEASE OF PERFORMANCE SURETY

Director of Community Development

Date

PERFORMANCE BOND

DEVELOPMENT NAME: _____

DEVELOPMENT PERMIT NUMBER: _____ LOCATION: _____

PHASE SUBMITTED FOR FINAL PLATTING OR DEVELOPMENT APPROVAL: _____

SUBJECT IMPROVEMENTS: As specifically identified and described as follows:

Final street topping, [for those streets identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule A]; and,

The construction of all sidewalks, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule B]; and,

The installation of the final landscaping, [as identified on the approved Buffer and Landscape Plan] [as listed as follows: _____] [as attached hereto on Schedule C]; and,

Grassing all street shoulders and easements, [as identified on the attached plat of the subdivision] [as listed as follows: _____] [as attached hereto as Schedule D].

KNOW ALL MEN BY THESE PRESENTS, that _____, hereinafter referred to as "Principal," and _____, a _____ Corporation authorized to do business in the State of Georgia, hereinafter referred to as "Insurer," hereby declare that:

1. We are held and firmly bound unto the City of Duluth, Georgia (hereinafter referred to as the "City") in the full and just sum of \$ _____, lawful money of the United States of America, payable to the City under the terms of this Bond, and we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this Bond.

2. This Bond shall be void if the Principal performs, in every respect, all of its obligations with regard to the subject improvements listed herein. Otherwise, this Bond shall continuously remain in full force and effect until released by the City.

3. (A) It shall be the duty of the Principal to notify Insurer of any revision to the plans, profiles and specifications of the subject improvements. Except as otherwise provided herein, Insurer expressly waives any right to receive notice from the City or to review or approve any revisions to the plans, profiles and specifications of the subject improvements that are required to meet City, State or federal standards. No such revisions of any kind in the work shall in any way affect the obligation of the Insurer under this Bond; except that the Principal shall submit to the Insurer for review and approval, and the Insurer shall have the right to review and approve, any such revision that:

(1) Grants the Principal any extension of time beyond the period provided for in the Agreement for completion of the subject improvements under the Agreement;

(2) Increases the cost of remaining construction of the subject improvements required under the Agreement by more than ten percent of the original sum of the Bond, as established by the estimate of Principal; provided, however, that the Insurer shall be in all cases conclusively bound for purposes of this subparagraph by the estimate rendered by the Principal to the City as to the cost of any such revision. Where revisions are made without approval of Insurer as required by this subparagraph 3(A)(2), Insurer shall be released from any liability for such revisions in excess of ten percent of the original sum of this Bond; provided, however, that such revision without review and approval of Insurer as required under this subparagraph 3(A)(2) shall not otherwise operate as a release or discharge of any obligation of Insurer under this Bond.

(B) The failure or refusal of the City to take any action, proceeding or step to enforce any remedy or exercise any right under the Agreement or the taking of any action, proceeding or step by Principal, acting in good faith upon the belief that same is permitted by the provisions of the Agreement, shall not in any way release Principal or Insurer, or either of them, or their respective executors, administrators, successors or assigns, from liability under this Bond. Except as set forth herein, Insurer hereby waives notice of any amendment, indulgence or forbearance,

made, granted or permitted.

(C) The City, Principal and Insurer intend each provision of this Bond to be valid and binding upon them, and expressly agree to abide thereby.

(D) In the event of a default (as defined in paragraph 4(A) of this Bond), the City may terminate whatever rights Principal and/or Insurer may have, to perform further work on the project.

4. (A) A default shall be deemed to have occurred on the part of the Principal, if Principal shall fail to complete the subject improvements under the Agreement within the time set forth therein or any extensions thereof; or, prior to the expiration of such period, if in the sole judgment of the Authorized City Official, the Principal has:

- (1) Abandoned or unnecessarily delayed the performance of its obligations under the Agreement; or,
- (2) Renounced or repudiated its obligations under the Agreement; or,
- (3) Clearly demonstrated through insolvency, delay or otherwise, that its obligations under the Agreement cannot be completed within the time allotted under the Agreement; or,
- (4) Not complied with or is not in compliance with the minimum standards of the Unified Development Code of the City of Duluth, Georgia, for any one or more of the subject improvements.

(B) If Principal defaults in the performance of all or any part of the obligations specified in the Agreement, the Authorized City Official shall give written notice of the default to the Insurer, with a copy to the Principal. In the event of such default and notice, Insurer shall within 30 calendar days of receipt of the default notice, give written response notice to the Authorized City Official stating whether it will assume or decline to assume the obligations of the Principal for completion of the subject improvements; and should it elect to assume said obligations Insurer shall be required to complete the subject improvements to the satisfaction of the City within 30 calendar days of said response notice or the date of completion of the subject improvements provided for under the Agreement, whichever is later. In the event that Insurer elects to assume the obligations of Principal as provided herein and thereafter fails to faithfully perform all or any part of the work, or should it unnecessarily delay all or any part of the work, the City may proceed as provided in paragraph 5 of the Bond.

5. Should Insurer, following notice of default, notify the City that it elects not to assume the obligations of Principal for completion of the subject improvements under the Agreement; or fails within 30 calendar days of receipt of the default notice as provided in paragraph 4 above to notify the City whether it elects to assume the obligations of Principal; or having elected to assume the obligations of Principal should it then fail to perform; then in either event the City may elect any of the following procedures or any combination thereof:

(A) Terminate whatever rights Principal and/or Insurer may have to perform further work on the project.

(B) Make demand on the Insurer for cash payment to be rendered immediately, but in no case less than five business days, and without further action, in the total amount of the Bond less the actual cost of the subject improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the City as to reasonableness.

(C) Take over or contract anew all or any part of the work on the subject improvements that is not completed and complete the same. The Principal and Insurer shall be jointly and severally liable to the City for all costs incurred in completion of the subject improvements and/or correction thereof. Such costs shall include necessary repairs, replacement or restoration of work previously completed and any cost to satisfy any liens or encumbrances placed on the subject improvements; provided however, that Insurer's liability shall not be greater than the total amount of the Bond.

(D) Take such other action as necessary, including but not limited to institution of legal action in a Court of competent jurisdiction, to compel payment of the total amount of the Bond or all costs incurred by the City in completion of the subject improvements and/or correction thereof, whichever is the larger amount, plus Court costs and attorneys' fees.

The Principal and Insurer consent and agree to comply with any and all elections of the above remedies, procedures and demands with respect thereto exercised by the City and further agree in the event of a failure to so comply with any demand made by the City pursuant to Paragraphs 4 and 5 herein, then they consent to and waive protest against the entry of a consent judgment in an amount no less than the total amount of the Bond or such greater amount to cover the cost of completion of the subject improvements, plus Court costs and attorneys'

fees; provided, however, that any such judgment against the Insurer shall not exceed the total amount of the Bond.

6. Insurer shall have the right, at any time within 30 days of the default notice provided for in 4(B) hereof, to request that the Authorized City Official determine a sum constituting the total amount of the Bond less the actual cost of the subject improvements expended as of the date of demand (as evidenced by invoices and proof of payments acceptable to the Authorized City Official as to reasonableness, but not including payments for inadequate or improper construction), as of that time. Should it so elect, Insurer may then pay over to the City the sum so determined and be released from any further obligations under this Bond. If funds are paid over under this section and the paid-over funds are not sufficient to complete the work, the City's sole remedy shall be to proceed against the Principal for any deficiency.

7. If any action or proceeding is initiated in connection with this bond and any and all obligations arising hereunder, the venue thereof shall be the City of Duluth, Georgia, and it is further understood and agreed that this contract shall be governed by the laws of the State of Georgia, both as to interpretation and performance.

8. All notices sent to the Principal and Insurer shall be sent to the addresses set forth on the signature page unless said Principal and Insurer notify the Authorized City Official in writing of such change. If the address of the Principal or Insurer changes, the Principal or Insurer shall immediately notify the Authorized City Official in writing of such change. Failure to notify the Authorized City Official of any change in address is deemed to be a waiver of any requirement for notice under this Bond to the Principal or Insurer. All written notice to the City required under this Bond shall be sent certified mail and addressed to the Authorized City Official with a copy to the City Attorney.

9. If any one or more of the provisions of this Bond are determined to be illegal or unenforceable by a court of competent jurisdiction, all other provisions shall remain in effect.

10. The Principal, his agents, employees or contractors, will comply with the applicable ordinances, laws, regulations and requirements of the City, including the Unified Development Code of the City of Duluth.

11. The Principal will hold harmless the City or any of its officers from any expense incurred through the failure of the Principal to perform or complete its obligations under the Agreement, or from any damages growing out of the negligence of the Principal, or his agents, employees or contractors.

12. Approval of this Bond by the City of Duluth Mayor and City Council shall be deemed acceptance without further notice to the Principal and/or Insurer.

13. The failure of the City to enforce or timely comply with any provision of this Bond shall not be deemed a waiver of the obligation of the Principal and Insurer hereunder.

14. Upon completion of the subject improvements, all monies due to third parties for such work will have been paid (or if not will be the responsibility of the Principal), that the improvements will be free and clear of any liens or encumbrances and that any liens or encumbrances subsequently filed on such facilities and improvements covered herein shall be the sole responsibility of the Principal.

15. The provisions and obligations of this Bond shall be controlled by and interpreted by the provisions and requirements of the Unified Development Code of the City of Duluth, Georgia, in effect as of the date of execution of this Bond by the Principal and Insurer.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be SIGNED, SEALED AND DELIVERED this _____ day of _____, 20____ :

PRINCIPAL:

ATTEST:

(Print Name of Corporation or entity)

Corporate Secretary (affix Corporate Seal), or
Notary Public (attach Certificate of Corporate Resolution)

Signature

My commission expires:

Date

ATTEST:

Corporate Secretary (affix Corporate Seal), or
Notary Public (attach Certificate of Corporate Reso-
lution)

My commission expires:

Date

Name (of individual signing above)

Address

Telephone number

INSURER:

(Print Name of Corporation or entity)

Signature

Name (of individual signing above)

Address

Telephone number

APPROVED BY THE DULUTH MAYOR AND CITY COUNCIL

Clerk to the Mayor and City Council

Date

Final Inspection has been completed and RE-
LEASE IS RECOMMENDED by:

City Engineer

Date

RELEASE OF PERFORMANCE BOND

Director of Community Development

Date

Mayor

WARRANTY AGREEMENT FOR REQUIRED LANDSCAPING

(PREPARE ON COMPANY LETTERHEAD)

DATE _____

RE: _____ (Project Name)

_____ (Site Address)

To: the City of Duluth Mayor and City Council

This letter is to guarantee the plantings and landscape material required by the City of Duluth Unified Development Code at the said project for a period of twelve (12) months from the date installation is completed and approved by the City of Duluth Director of Planning and Development or other representative of the City of Duluth Mayor and City Council. Said City approval of installation shall be evidenced by the signature of such authorized representative on the date shown, below. Failure to obtain such City approval shall automatically extend the beginning of this warranty period until such approval is granted.

I understand and agree that the City's Development Inspector or other representative of the City of Duluth Mayor and City Council will perform an inspection of the plantings and landscape material by the end of the twelve (12) month guarantee period. Thereafter, the Owner either will be notified of compliance with the Buffer and Landscaping requirements of the City of Duluth Unified Development Code, or will be notified in writing of any replacements or restorations that must be made to maintain such compliance.

I understand and agree that I am required to replace any plantings that are found to be dead or near death, and to replace or restore any landscape material that is damaged or missing, in accordance with the notification of such replacements or restorations made by the City to the Owner. Replacement must be completed within thirty (30) calendar days from said written notification to the Owner from the City or a Performance Surety must be posted with the City for such period as necessary to guarantee replacement or restoration of the plantings or the landscape material.

Date_____
ATTEST: Notary PublicMy commission expires:

Owner or Landscape Contractor:

Signature (affix Corporate Seal if Corporation)_____
Printed Name_____
Address_____
Address_____
Telephone number

Final Inspection has been completed and RE-
LEASE IS RECOMMENDED by:

Development Inspector (signature)

Date

RELEASE OF WARRANTY FOR INSTALLATION
OF REQUIRED LANDSCAPING

Director of Planning and Development (signature)

Date

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Article 12. Appeals

Article 12 describes the process for addressing unusual situations or unique problems that may arise from the strict interpretation or enforcement of this Development Code, including appeals from an administrative decision, for a special exception, and for unique hardships restricting reasonable use of a property.

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Article 12. Appeals

Section 1201. Appeals; in General.

1201.01 Types of Appeals.

Persons may appeal for relief under the following circumstances:

(a) Appeals of a Legislative nature.

(1) Special exception.

When an exception is desired for a particular property from certain requirements of this Development Code, as specified in this Article, which is not inconsistent with the protection of the public health, safety or general welfare.

(2) Administrative decision.

When aggrieved by an action or an interpretation of the Planning and Development Director or any other administrative official of the City made under this Development Code. An administrative official is defined as the head of any department subject to these regulations.

(b) Appeals of a Quasi-judicial nature.

(1) Hardship variance.

When compliance with the requirements of this Development Code would create a particular hardship unique to a property due to physical characteristics that are beyond the owner's control.

(2) Floodplain management variance.

When the requirements of this Development Code for floodplain management would create an exceptional hardship that would adversely affect the use of a property or an historic structure.

1201.02 Temporary Suspension of Permitting and Stay of Enforcement.

(a) Upon submission of a valid and complete application for the granting of an appeal on a property, no permits shall be issued nor shall any actions be undertaken on the property by the owner or an employee, representative or contractee of the owner that may be affected by the outcome of such application.

(b) Stay of Proceedings. An appeal stays all judicial proceedings in furtherance of the action appealed from, unless the Director from whom the appeal is taken certifies after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such case judicial proceedings shall not be stayed other than by a restraining order by a court of competent jurisdiction.

1201.03 Applications for Relief.

An application for any type of appeal as listed under Section 1201.01 shall be filed in writing with the Planning and Development Director on a form provided by the Department, along with supporting documents, that explain in detail the reasons and facts supporting the application.

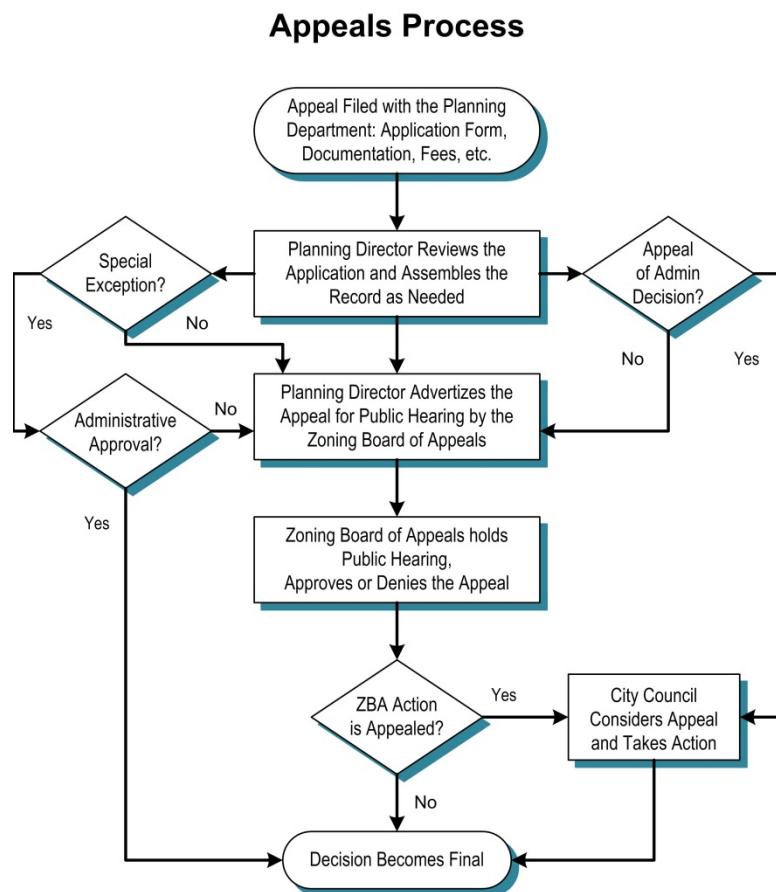
Section 1202. Intent of this Article.

1202.01 Initiation of an Appeal.

It is the intent of this Article that all questions of interpretation and application of the provisions of this Development Code shall be first presented to the Planning and Development Director, and that an appeal of an adverse decision of the Director shall follow the procedure appropriate to the type of appeal as defined under Section 1201.01 and as proscribed by this Article.

1202.02 Approval of an Appeal by the Zoning Board of Appeals.

- (a) The Zoning Board of Appeals shall hear and decide requests seeking justice and equity from unique situations that are alleged to have resulted in an unnecessary and unwarranted hardship on a property, and from exceptional hardships created by the floodplain management provisions of this Development Code. The procedure for deciding such questions shall be as set forth in this Article with regard to hardship variances and floodplain management variances, as appropriate.
- (b) The Zoning Board of Appeals shall hear and decide special exception requests that have been denied by the Planning and Development Director or are beyond administrative approval parameters.
- (c) A decision by the Zoning Board of Appeals shall be final unless appealed to the City Council, which appeal must be brought within 15 days of the Zoning Board of Appeals' decision.



1202.03 Approval of an Appeal by City Council.

- (a) The City Council may hear and finally decide requests for special exceptions and hardship or floodplain management variances that have been included in the application for a proposed development that is under consideration for a rezoning or special use approval. In such cases, the Zoning Board of Appeals may include its recommendations on such special exceptions or variances in its report, and the City Council shall assume all powers and duties otherwise exercised by the Zoning Board of Appeals.

- (b) The City Council shall hear and finally decide all appeals from actions by the Zoning Board of Appeals.
- (c) The City Council shall hear and finally decide all appeals from an administrative decision not otherwise associated with a special exception or a hardship or floodplain management variance.
- (d) Appeal from a final decision by the City Council shall be to a court of competent jurisdiction, and must be brought within 15 days of the City Council's final action.

Section 1203. Special Exceptions.

1203.01 Appellant for a Special Exception.

A request for approval of a special exception on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

1203.02 General Limitations on Relief.

Relief shall be limited to the requirements of this Development Code as listed under the "special exceptions" column on Table 12-A: Special Exceptions.

1203.03 Standards for Approval.

A special exception may be approved upon a finding that the relief, if granted:

- (a) Would not cause substantial detriment to the public good; and
- (b) Would comply with all fire safety, utility and environmental health code requirements; and
- (c) Would not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity; and
- (d) Would not diminish and impair property values within the surrounding neighborhood; and
- (e) Would not impair the purpose and intent of this Development Code.

1203.04 Administrative Approval.

- (a) Special exceptions shall be considered for approval by the Zoning Appeals Board unless the request is approved administratively.
- (b) The Planning and Development Director, upon a finding that a special exception meets the standards for approval contained in Section 1203.03 may (but is not required to) administratively approve such special exception within and not exceeding the parameters shown on Table 12-A: Special Exceptions.
- (c) Actions following administrative consideration.
 - (1) Any administrative approval, approval with conditions or denial of a special exception by the Director shall be made in writing to the appellant and also made a part of the Department's records. Such administrative action shall be made within 15 days of receipt of a complete application for a special exception.
 - (2) Appeals from the administrative action by the Director on a special exception shall be forwarded to the Zoning Board of Appeals for final action in their normal course of business.

Table 12-A: Special Exceptions

Special Exception	Administrative Approval Parameters
<p>Accessory uses and buildings:</p> <p>An increase in the maximum allowable size of an accessory building.</p>	<p>Any increase may be approved that is consistent with the use or normal operations of the proposed building and is compatible with neighboring properties. Any building so increased must obtain issuance of a building permit.</p>
<p>The placement or construction of an accessory use or building on a lot prior to or in lieu of a principal use or building.</p>	<p>Administrative approval is not available.</p>
<p>Buffers, landscaping and tree protection.</p>	<p>Modification or waiver of the standards for zoning buffers, site landscaping or tree protection may be authorized by the Planning and Development Director in specific cases when, in the Director's opinion, undue hardship may result from strict compliance; provided any such determination shall be based fundamentally on the fact that unusual topographical or other exceptional conditions require such modification, and that the granting of the modification will not adversely affect the general public welfare or nullify the intent of this Development Code.</p>
<p>Fences within the required front yard in a residential district.</p>	<p>Fences within the required front yard must meet the following specifications and conditions for administrative approval:</p> <ol style="list-style-type: none"> a. The special exception application must include the following: <p>picture of fence (i.e., drawing, sketch, brochure, manufacturer's literature, photograph or other pictorial documentation) and property survey showing the location of the fence, house and street frontage</p> <ol style="list-style-type: none"> 1. A drawing, sketch, brochure, manufacturer's literature, photograph or other pictorial documentation of the proposed fence; and 2. A property survey showing the location of the fence, the house or other principal building, and the street frontage. b. The maximum height shall be 3 feet. c. Fence shall be constructed with natural wood, simulated wood, brick columns or decorative ornamental iron only. d. The distance between the pickets of a picket fence must be a minimum of 2 inches. e. The color of the fence must be natural wood colors, neutral colors such as white, beige, ivory, cream off-white, or black, dark green wrought iron or the same color as the façade of the principal structure on the property. f. The fence shall be maintained at all times by the property owner and/or occupant of the property.

Table 12-A: Special Exceptions

Special Exception	Administrative Approval Parameters
Land development construction standards.	Modification or waiver of the construction standards of this Development Code regarding land preparation or grading, drainage or erosion control, street design or construction, or the installation of utilities may be authorized by the Planning and Development Director in specific cases when, in the Director's opinion, undue hardship may result from strict compliance; provided any such determination shall be based fundamentally on the fact that unusual topographical or other exceptional conditions require such modification, and that the granting of the modification will not adversely affect the general public welfare or nullify the intent of this Development Code.
Maximum building height.	Not to exceed an additional 4 feet above the maximum allowed.
Minimum building setbacks.	<p>a. Not to exceed a reduction in the minimum setback required by 10%, except the front setback may be reduced or waived for a multi-family or nonresidential use if the parking is located in the side or rear yards and the landscaping requirements of this Development Code are met.</p> <p>b. For a legal nonconforming lot of record, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the Planning and Development Director is hereby authorized to grant a special exception reducing the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling but, in no case shall each of the side yards be less than 5 feet in width.</p>
Minimum lot width.	Administrative approval is not available.
Minimum floor area requirements for dwellings.	Administrative approval is not available.
Nonconforming structure, enlargement or extension of.	Administrative approval is not available.
Parking requirements, such as the number of spaces required or improvement standards for parking lots.	In instances where an applicant shows specific and valid reasons why the requirements of the plan and design standards for off-street parking, the number of off-street parking spaces required or the minimum size and number of off-street loading and unloading spaces cannot be reasonably met and where a reduction of not more than 10 percent in such requirements will not adversely affect the spirit or the intent of this Development Code, the Director may administratively grant such reduction.
Signs.	See Article 6 provisions for Planning and Development Director approval for increasing sign sizes (up to 10%) or the number of signs, and for Master Sign Plan approvals.
Street frontage.	Administrative approval is not available.
Structures that overhang a required setback.	The overhang of a structure into a required setback may be administratively approved for up to no more than 4 feet.
Telecommunication Facilities: Telecommunication facility setbacks (not a part of a special use application).	Not to exceed a reduction in the minimum setback required by 10%.
Separation between telecommunication towers greater than 70 feet in height.	Not to exceed a reduction in the minimum 1500-foot separation required by 10%, or greater if technologically required based on engineering requirements or visually preferable based on sight line studies or other documentation prepared by the appellant.

Table 12-A: Special Exceptions

Special Exception	Administrative Approval Parameters
The number of non-resident employees working in a home-based business.	Administrative approval is not available.
Zoning buffers and screening.	Administrative approval is not available.

1203.05 Limitations on Special Exception Approval.

In no case shall a special exception be granted from the conditions of approval imposed on a property through a zoning change or special use approval granted by the City Council.

Section 1204. Hardship Variances.**1204.01 Appellant.**

A request for a hardship variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

1204.02 Conditions Governing Applications.

- (a) A variance from the terms of this Development Code may be granted where, owing to special conditions, a literal enforcement of the provisions of this Development Code would result in unnecessary hardship and such approval will not be contrary to the public interest. A variance from the terms on this Development Code shall not be granted unless a written application for a hardship variance is submitted demonstrating:
- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district;
 - (2) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Development Code;
 - (3) That the special conditions and circumstances do not result from the actions of the appellant;
 - (4) That granting the variance requested will not confer on the appellant any special privilege that is denied by this Development Code to other lands, structures or buildings in the same district; and,
 - (5) That the request is limited to the extent necessary to alleviate the unnecessary hardship and not as a convenience to the appellant nor to gain any advantage or interest over similarly zoned properties.

- (b) Non-conforming use of neighboring lands, structures or buildings in the same zoning district, and not permitted or non-conforming use of lands, structures or buildings in other zoning districts shall not be considered grounds for issuance of a hardship variance.

1204.03 Limitations on hardship variance approval.

In no case shall a hardship variance be granted for any of the following:

- (a) A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.
- (b) A change in the conditions of approval imposed through a zoning change granted by the City Council.
- (c) Reduction of a minimum lot size required by a zoning district except for a lot of record that existed in its entirety prior to the adoption of this Development Code.
- (d) A use of land or buildings or structures that is not allowed by the zoning district that is applicable to the property, or to alter the density requirements in the zone in question.
- (e) Any increase in the number of dwelling units or nonresidential building floor area otherwise allowed by the zoning district that is applicable to the property.

1204.04 Documentation.

All applications for a hardship variance shall be accompanied by written information, a plat or drawing, or other documentation that clearly explains or shows the basis for the appeal.

Section 1205. Floodplain Management Variances.

1205.01 Appellant.

A request for a floodplain management variance on a property shall be brought by the property owner or, with the owner's permission, the holder of or applicant for a permit for development or construction on the property.

1205.02 Floodplain Management Variances; General.

A floodplain management variance may be considered under the following circumstances:

- (a) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (b) 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.

1205.03 Floodplain Management Variance Procedures.

The following variance and appeals procedures shall apply to an appellant 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 floodplain management provisions of this Development Code. A request for a floodplain management variance may be submitted by an appellant to the Planning and Development Director.

- (a) Requests for such variances from the requirements of this Development Code shall be submitted to the Planning and Development Director. All such requests shall be heard and decided in accordance with procedures in Section 1206 of this Article, below. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (b) Any person aggrieved by the decision of the Zoning Appeals Board may appeal such decision to City Council, as provided below.
- (c) Floodplain management 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 shall be the minimum necessary to preserve the historic character and design of the structure.
- (d) Floodplain management variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (e) Floodplain management variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (f) In reviewing such requests, the Zoning Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in Floodplain Management Section of this Development Code.
- (g) Conditions for variances:
 - (1) A Floodplain management variance shall 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 the Floodplain Management Section of this Development Code are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - (3) Any person to whom a floodplain management variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 - (4) The Planning and Development Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (h) Any person requesting a floodplain management variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the

Planning and Development Director, Zoning Board of Appeals or City Council shall deem necessary to the consideration of the request.

- (i) Upon consideration of the factors listed above and the purposes of floodplain management stated in this Development Code, the Zoning Board of Appeals or the City Council may attach such conditions to the granting of a floodplain management variance as they deem necessary or appropriate, consistent with the purposes of this Development Code.
- (j) Floodplain management variances shall not be issued “after the fact”.

1205.04 Standards for Approval.

In passing upon a floodplain management variance, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Development Code relating to flood damage prevention, and the:

- (a) Danger that materials may be swept onto other lands to the injury of others;
- (b) Danger to life and property due to flooding or erosion damage;
- (c) Susceptibility of the facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) Importance of the services provided by the facility to the community;
- (e) Necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (f) Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) Compatibility of the use with existing and anticipated development;
- (h) Relationship of the use to the comprehensive plan and floodplain management program for that area;
- (i) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (k) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

1205.05 Requirements if Approved.

- (a) Any applicant to whom a floodplain management variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk to life or property.
- (b) The Planning and Development Director shall maintain the records of all such variance actions and report any floodplain management variances to the Federal Emergency Management Agency upon request.

Section 1206. Process for Granting a Special Exception or Variance.

1206.01 Application and Initial Actions.

- (a) An application for a special exception, hardship or floodplain management variance shall include such descriptions, maps or drawings as needed to clearly illustrate or explain the action requested, and such filing fees as may be required. The Planning and Development Director may request such additional information from the appellant as necessary to provide a full understanding of the appellant's request.
- (b) Once the record has been assembled, the Planning and Development Director will:
 - (1) Schedule unresolved appeals for consideration at the next meeting of the Zoning Board of Appeals for which adequate public notice can be given; and
 - (2) Send a letter by first class mail to the applicant or his attorney notifying the appellant of either 1) administrative resolution of the matter or 2) the date, time and place of the public hearing.

1206.02 Public Notice.

- (a) Published notice.

At least 15 days prior to the public hearing, notice shall be published in a newspaper of general circulation within the city. The notice shall state the time, place and purpose of the hearing and shall include the location of the property, the present zoning classification of the property, and the nature of the requested action

- (b) Posting of signs.

- (1) In addition to the newspaper notice, a sign or signs shall be placed by an official of the Planning and Development Department in a conspicuous location on the property frontage in such manner as to be legible from the public road. On lots with more than one road frontage, a sign will be placed facing each public road. If the property has no road frontage, the sign shall be placed on each road at a location where access will be gained to the property.
- (2) The sign(s) must be in place no less than 15 days prior to the date of the public hearing and shall state the date, time and place for the Zoning Board of Appeals public hearing and the nature of the proposed variance.

- (c) Sufficiency of public notice.

- (1) Where published notice is given in accordance with this Section and a sign has been posted in accordance with this Section, no further notice to interested parties or adjacent or near-by property owners is required.
- (2) As a matter of courtesy, the City may provide notification of the application by regular mail to all abutting property owners as shown by tax records prior to the public hearing which shall include a description of the application and the date, time and place of the public hearing. This notification shall be deemed made upon the mailing of the notice to persons listed on the tax records as owners of abutting property at the addresses shown on the tax records, regardless of whether the notice is actually received and regardless of whether ownership of abutting property has changed.
- (3) Appearance of a person at the public hearing shall constitute a waiver of any claims by such person based upon improper publication of notice or posting on the property by such person.

1206.03 Withdrawal.

Any appellant wishing to withdraw a special exception or variance application prior to final action on the application shall file a written request for withdrawal with the Planning and Development Director.

- (a) The withdrawal request must be in writing and signed by the owner, the appellant or the owner's authorized agent.
- (b) If the request for withdrawal is received prior to the publication of notice for the public hearing as required under Section 1206.02, the application shall be withdrawn administratively by the Planning and Development Director.
- (c) If a request for withdrawal of the application is received after notice has been published (or irretrievably set for publication) for the scheduled public hearing, the appeal may be withdrawn at the public hearing with the consent of the Zoning Board of Appeals and removed from further consideration.

1206.04 Conducting a Public Hearing.

(a) Procedures.

- (1) All public hearings held by the Zoning Board of Appeals to which this Article applies shall be held in accordance with the procedures of this Subsection.
- (2) The presiding official may administer oaths and compel the attendance of witnesses by subpoena.
- (3) The presiding official shall conduct the public hearing informally, as strict adherence to the rules of evidence is not required.
- (4) All parties participating in the public hearing shall introduce only relevant evidence.
- (5) All parties participating shall have the right to present witnesses and to cross-examine witnesses.

(b) Opening hearings.

The presiding official shall open the public hearing by stating the matter being considered at the hearing. At this time, the presiding official may summarize the public hearing procedures.

(c) Background and recommendations.

An official of the Planning and Development Department shall submit the assembled record of the request to the Zoning Board of Appeals. The Planning and Development Official shall provide such information or explanation as appropriate to the circumstances of the request.

(d) Proponents of the requested special exception or variance.

- (1) Persons who support the request will be asked to comment first. The appellant or their designated agent may, upon recognition and upon statement of name, address and relationship to the matter, present and explain the request. The appellant may appear in person or may be represented by an agent or counsel.
- (2) The appellant or the appellant's representative shall be required to attend the public hearing unless written notice of hardship is received prior to the hearing. Failure of the appellant or the appellant's representative to attend the public hearing, except in cases of hardship, may be due cause for the tabling of the application.

- (3) The appellant shall have the burden of proof, which shall include the presentation of evidence and the burden of persuasion of each factor necessary to receive the approval of the request by the Zoning Board of Appeals.
- (4) After completion of the presentation of the appellant, other persons who support the request will be asked to comment, and will be allowed to speak in support of the request upon recognition and upon identification of the person's name, address, and relationship to the matter.
- (e) Persons opposing the requested special exception or variance.

Persons who oppose the request will next be asked to comment. Each interested person, after being recognized, and providing their name, address and relationship to the matter shall be afforded an opportunity to speak.
- (f) Rebuttal.

The appellant shall have an opportunity for rebuttal concerning the request. Rebuttal must be limited to points or issues raised by opponents to the application at the hearing.
- (g) Time limitations.

The presiding officer has the discretion to impose time limitations on comments of each person, provided that no less than ten minutes shall be allowed for all those speaking in support of the request and no less than ten minutes shall be permitted for those speaking against the request.
- (h) Discussion.

All public comments having been heard, the members of the Zoning Board of Appeals may discuss the matter among themselves. During this discussion period, the members may call on the Planning and Development Official, any proponent or opponent, or other persons in attendance to clarify points made previously, to answer questions or to provide additional information. Such persons may respond upon recognition.
- (i) Delay, rescheduling or continuation of hearing.

A public hearing on a request may be delayed, rescheduled or continued to another time and date, provided the announcement of the new time, place and date is given at the time and place of the advertised hearing, which announcement shall constitute public notice for the delayed, rescheduled or continued hearing.
- (j) Transcription.
 - (1) All proceedings of the Zoning Board of Appeals shall be recorded on tape or other media. The recording of the proceedings shall be retained until any further appeals on a request have been exhausted.
 - (2) The appellant or any person in opposition to the request, at their expense, is allowed to have the public hearing transcribed by a court reporter.

1206.05 Decisions by the Zoning Board of Appeals.

- (a) Findings of fact.
 - (1) Following the public hearing, the Zoning Board of Appeals shall adopt findings of fact supporting their decision and may adopt any additional report it deems appropriate.

- (2) In order to approve an application, the Zoning Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the special exception or variance and that approval would be the minimum needed to make possible the reasonable use of the land, building or structure.
- (3) In preparing its findings or report, the Zoning Board of Appeals must consider the standards for approval set forth for a special exception under Section 1203.03(a), for a hardship variance under Section 1204.02 and Section 1204.03, or for a floodplain management variance under Section 1205.04, as applicable.

(b) Decision.

The Zoning Board of Appeals shall approve, approve with conditions or deny an application by majority vote no later than their next regularly scheduled meeting at which a quorum is present following the public hearing. If no decision obtains a majority vote, the application shall be considered denied unless the appellant agrees to a tabling of the application to the Board's next regularly scheduled meeting.

(c) Appeal.

A decision of the Zoning Board of Appeals shall only be appealed to the City Council, and must be filed with the City Clerk within 15 days of the decision of the Zoning Board of Appeals. If appealed to the City Council, the decision of the Zoning Board of Appeals shall have an advisory effect only and shall not be binding on the City Council.

(d) Written decision.

The appellant shall be informed in writing of the Board's decision and the findings of fact regarding the decision, which will be sent by regular mail within 7 days of the date of the decision. Failure to receive the written decision within 7 days shall not constitute a procedural error on the part of the City, nor affect the decision of the Board in any manner.

1206.06 Decisions by the City Council.

- (a) The City Council shall consider an appeal of a decision of the Zoning Board of Appeals and take action on the application at its next regularly scheduled meeting that occurs at least 7 days after receipt of the appeal by the City Clerk.
- (b) To "take action" is defined as to approve, to approve with conditions, to disapprove or to table the application. In taking such action, the City Council may ratify the findings of fact and decision of the Zoning Board of Appeals, or shall adopt their own findings of fact that support their action.
- (c) If the City Council fails to make a decision within 60 days after the date of the decision on the application by the Zoning Board of Appeals, the decision by the Zoning Board of Appeals shall stand and be considered final. For the purposes of this paragraph, "60-days" shall mean until the regular meeting of the City Council occurring no later than two calendar months following the Board's decision.
- (d) Decision Final.

A decision of the City Council shall be final and may be appealed only to a court of competent jurisdiction. Such appeal must be taken within 15 days of the adoption of the minutes of the City Council meeting at which the decision was made.

1206.07 Conditional approval.

In granting any special exception or variance, the Zoning Board of Appeals or the City Council may impose appropriate conditions of approval which it deems necessary in order to make the requested action acceptable and consistent with the purposes of this Development Code and of the zoning district(s) involved, to ameliorate negative issues identified through evaluation of the special exception or variance, or to further the goals and objectives of any plans adopted by the City. Violation of such conditions of approval, when made a part of the term under which the variance is granted, shall be deemed a violation of this Development Code and punishable under the provisions of Article 13.

1206.08 Re-Application.

If an application for a special exception or a hardship or floodplain management variance on a property is denied by the Zoning Board of Appeals (or by the City Council upon appeal), a re-application for the same special exception or variance on the same property may not be made until the expiration of 12 months from the date of final action on the application, unless the Zoning Board of Appeals agrees to waive the 12-month waiting period by majority vote.

Section 1207. Appeals of an Administrative Decision.

1207.01 Appellant.

Any person aggrieved by an alleged error in any order, requirement, decision or determination made in the interpretation or enforcement of this Development Code by an administrative official of the City may initiate an appeal directly to the City Council.

1207.02 Initiation of Administrative Appeal.

- (a) An administrative appeal shall be taken within 30 days of the action or interpretation appealed from, by filing the appeal in writing with the Planning and Development Director specifying the grounds of the appeal. The Planning and Development Director shall transmit a notice of said appeal to the City Council specifying the grounds thereof.
- (b) The Planning and Development Director may initiate an administrative appeal independently when an interpretation or clarification of the meaning of words or phrases, of the particular boundaries of a zoning district or of any other provision of this Development Code is needed.

1207.03 Action by the City Council.

- (a) Upon receiving a notice of an administrative appeal, the Planning and Development Director shall assemble such memos, papers, plans or other documents from the appellant as may constitute the record for the appeal or as may provide an understanding of the issues involved.
- (b) The Planning and Development Director is authorized to resolve the administrative appeal to the satisfaction of all parties involved, if possible, and may seek the advice of the City Attorney.
- (c) The Planning and Development Director shall transmit any unresolved administrative appeal request and all related documentation to the City Clerk such that the administrative appeal request can be considered by the City Council within 30 days of the filing of the appeal with the Planning and Development Director.
- (d) The City Council shall consider the appeal at its next regularly scheduled meeting that occurs at least 7 days after receipt of the Planning and Development Director's appeal documentation by the City Clerk, and may at its discretion hear from the appellant, the administrative official from whom the appeal is taken, or the Planning and Development Director.
- (e) City Council authority.

The City Council is authorized to:

- (1) Decide appeals from any order, determination, decision or other interpretation by any administrative official acting under authority of this Development Code, where a misinterpretation or misapplication of the requirements or other provisions of this Development Code is alleged;
 - (2) Interpret the use of words or phrases within the context of the intent of this Development Code;
 - (3) Determine the boundaries of the various zoning districts where uncertainty exists; and,
 - (4) Interpret such other provisions of this Development Code as may require clarification or extension in specific or general cases.
- (f) Decisions of the City Council.
- (1) In exercising its powers on administrative appeals, the City Council may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the administrative official from whom the appeal is taken.
 - (2) Decision final.

The decision of the City Council shall be final and may be appealed only to a court of competent jurisdiction. Such appeal must be taken within 15 days of the adoption of the minutes of the City Council meeting at which the decision was made.

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Article 13. Administration

Article 13 sets out the structure and responsibilities of the various administrative officers and boards for administering, amending and enforcing this Development Code, and sets out penalties for violations.

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Article 13. Administration

Section 1301. Director of Planning and Development.

It shall be the duty of the Director of the Planning and Development Department who is hereby given the authority, to administer and enforce the provisions of this Development Code. The Director shall be such individual appointed by the City Council. Such person shall be an employee of the City of Duluth.

1301.01 Delegation of Duties.

The Planning and Development Director may, in his or her discretion and administrative authority, delegate duties and responsibilities to designated employees of the Planning and Development Department as needed and appropriate for the administration and enforcement of this Development Code.

1301.02 Use Permit and Building Permit Required.

- (a) A building permit shall be required if work entails more than painting, wallpapering, minor non-structural repairs or carpeting. No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the Planning and Development Director or his or her designated Building Inspector. No building permit shall be issued for a building, structure or use that is not in conformance with the provisions of this Development Code.
- (b) All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the sizes and the locations on the lot of any existing buildings or structures, the shape, size, height, use and the location on the lot of the building or structure to be erected, moved, added to or structurally altered and such other information as may be necessary to provide for the enforcement of this Development Code.

1301.03 Certificate of Occupancy Required.

- (a) A Certificate of Occupancy issued by the Building Inspector is required in advance of the use or occupancy of:
 - (1) Any lot or a change in the use thereof.
 - (2) A building hereafter erected or a change in the use of an existing building.
 - (3) Any non-conforming use existing at the time of the enactment of this Development Code or any amendment thereto or that is proposed to be changed, extended, altered or built. The Certificate of Occupancy shall state specifically wherein the non-conforming use fails to meet provisions on this Development Code.
- (b) No Certificate of Occupancy shall be issued unless the lot or building or structure complies with the provisions of this Development Code and any other City Development Codes pertaining to the development, structure or site.
- (c) A record of all Certificates of Occupancy shall be kept on file in the Office of the Building Inspector and a copy shall be furnished on the request of any person having a proprietary or tenancy interest in the building or land involved.

1301.04 Required Action; Time Period.

- (a) In each case in this Development Code where the issuance of a permit or other action by any official of Duluth is required and a time period for such action is specified, then the failure of the official responsible for same to take such action or issue such permit within the stated time period shall be deemed an approval of the matter or the issuance of the permit, as the case may be.
- (b) If at any place in the Development Code an action is required by any such official and no time frame is provided herein, then such timeframe shall be deemed to be 45 calendar days and the failure to act to either approve or deny same or request further information shall be deemed an approval of the matter or the issuance of the permit, as the case may be.

Section 1302. Duluth Planning Commission.**1302.01 Duluth Planning Commission: Creation, Membership, Appointment and Terms of Office.**

- (a) The Planning Commission is hereby established, which shall consist of five members and one alternate, all of whom shall be residents of the City of Duluth or the owner or operator of a business located within the City of Duluth, provided the business is current in the payment of its City Occupational Tax and all other payments due to the City.,
 - (1) The five members and the alternate member are to be appointed by the City Council.
 - (2) Each of the five members shall vote on each matter before it (or may recuse themselves from voting in the case of a conflict of interest or other stated reason). In the absence of one of the five members, or in the case of the recusal of a member, the alternate member shall serve as a voting member and shall be counted for the purposes of establishing a quorum.
- (b) The term of office for members shall be four years, said terms to be staggered, to begin on April 1 and end on March 31.
- (c) Regardless of any other provision to the contrary contained in this Section, at all times at least four members of the Planning Commission shall be residents of the City of Duluth.
- (d) Members of the Planning Commission may be removed for cause or for nonattendance at three consecutive meetings upon written charges and after public hearing. Vacancies shall be filled by Resolution of the City Council for the remainder of the term of the member affected.
- (e) No member of the Planning Commission shall hold elected public office in Duluth.

1302.02 Officers.

The Chairman of the Planning Commission is selected from one of the existing five members and appointed by the Mayor. The Planning Commission shall elect one of its members as Vice-Chairman, and a second as Secretary. The City Council may delegate the administrative and record keeping duties of the Planning Commission to an employee of the City of Duluth.

1302.03 Procedure.

- (a) The Planning Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Development Code. All meetings shall be open to the public.
- (b) The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep record

of its examination and other official actions, all of which shall be a public record and be immediately filed in the Planning and Development Department.

1302.04 Powers and Duties.

The Planning Commission shall have the following powers and duties:

- (a) To review applications and make findings and recommendations for zoning map amendments and special use requests as set forth in Article 11 of this Development Code in accordance with the review standards therein.
- (b) To review applications and make findings and recommendations regarding Master Sign Plans as may be referred to the Planning Commission by the Director.
- (c) To review proposals and make findings and recommendations for code amendments as set forth in Section 1305 in accordance with the review standards under Section 1305.04 therein.
- (d) To initiate, direct and review, from time to time, a study of the provisions of this Development Code and to make reports of its findings and recommendations as to needed amendments to the City Council.
- (e) To carry out such other duties, responsibilities or activities as may be requested by the City Council.
- (f) To have final authority, at least three members must concur to approve an application. Each official action shall contain a statement of the grounds and findings forming the basis for said decision, and the text of the motion and record of members' votes shall be incorporated in the minutes of the Planning Commission.

Section 1303. Zoning Board of Appeals.

1303.01 Zoning Board of Appeals Creation, Membership, Appointment, Terms of Office.

- (a) A Zoning Board of Appeals is hereby established, which shall consist of five members and one alternate member, all of whom shall be residents of the City of Duluth or the owner or operator of a business located within the City of Duluth, provided the business is current in payment of its City Occupational Tax and all other payments due the City.
 - (1) The five members and the alternate member are to be appointed by the City Council, each for a term of four years, said terms to be staggered, to begin on April 1 and end on March 31.
 - (2) Each of the five members shall vote on each matter before it (or may recuse themselves from voting in the case of a conflict of interest or other stated reason). In the absence of one of the five members, or in the case of the recusal of a member, the alternate member shall serve as a voting member and shall be counted for the purposes of establishing a quorum.
- (b) Regardless of any other provision to the contrary contained in this Section, at all times at least four members of the Zoning Board of Appeals shall be residents of the City of Duluth.
- (c) Members of the Zoning Board of Appeals may be removed from office by the City Council for cause or for nonattendance at three consecutive meetings upon written charges and after a public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected.

- (d) One member of the Zoning Board of Appeals shall be a member of the Planning Commission. No other member of the Zoning Board of Appeals shall hold an elected or appointed public office in Duluth Government.

1303.02 Officers.

The Zoning Board of Appeals shall elect one of its members, other than the member of the Planning Commission, as Chairman, a second one as Vice-Chairman, and a third as Secretary. The Chairman, Vice-Chairman and Secretary shall serve one year or until re-elected or until successors are elected. The City Council may delegate the administrative and record keeping duties of the Zoning Board of Appeals to an employee of the City of Duluth.

1303.03 Procedure.

- (a) The Zoning Board of Appeals shall adopt rules necessary to the conduct of its affairs provided such rules are not in conflict with the provisions of this Development Code. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings shall be open to the public.
- (b) The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the Planning and Development Department.

1303.04 Power and Duties.

The Zoning Board of Appeals shall have the power and duty to consider and decide requests for special exceptions referred to it by the Director, hardship variances and floodplain management variances, in accordance with the provisions and procedures contained in Article 12, Appeals.

Section 1304. Schedules and Fees.

- (a) From time to time, the City Council may adopt fees for the issuance of permits, the submission of applications, and such other activities and authorizations as regulated by this Development Code, and may adopt schedules of dates, times and places as appropriate and necessary to regulate the application, review and public hearing processes required by this Development Code.
- (b) The schedule of fees shall be available in the Planning and Development Department office, and may be altered or amended only by the City Council.
- (c) Until all applicable fees have been paid in full, no action shall be taken on any application, permit or appeal.

Section 1305. Development Code Amendments.

1305.01 Amendments Authorized.

This Development Code may be amended from time to time in whole or in part by the City Council, including the re-adoption or comprehensive amendment of the Official Zoning Map. Any amendment to or insertion of a new Article, Section, Subsection or Paragraph, or any comprehensive Zoning Map Amendment shall be considered and acted upon by the City Council under the provisions of this Section.

1305.02 Initiation of Code Amendments.

Only the City Council may initiate a change to the text of this Development Code or a comprehensive amendment to the Zoning Map. Such an initiation may be in response to a request from the Director, the Planning Commission, the Board of Zoning Appeals, or any private citizen or property owner, or on its own motion, upon a determination that the public necessity, general welfare or good zoning practice justifies such action.

1305.03 Code Amendment Process.

No amendment to the text of this Development Code or comprehensive amendment to the Zoning Map (hereinafter referred to as a “code amendment”) shall become effective unless it shall have been submitted to the Planning Commission for review and recommendations.

(a) Public Notice.

Before enacting a code amendment to this Development Code, the city shall hold public hearings thereon. At least 15 days but not more than 45 days prior to each public hearing, notice is to be published in a newspaper of general circulation within the city. The notice is to state the time, place and purpose of the hearing.

(b) Public Hearings; Procedures.

Public hearings by the Planning Commission and the City Council on a code amendment shall follow the same procedures as a public hearing for a rezoning or special use, as described under Article 11 of this Development Code.

(c) Decision on a Code Amendment.

- (1) The Planning Commission shall make a recommendation for approval, denial or such other action it deems appropriate, no later than their next regularly scheduled meeting following their public hearing, or the proposed amendment shall go forward with no recommendation. The report of the Planning Commission shall be forwarded in writing to the City Council for final approval or denial.
- (2) The City Council shall hold its public hearing and take action on each code amendment at a regularly scheduled meeting for which adequate notice can be published.
- (3) The Planning Director shall maintain a record and date of such amendments as approved or denied by the City Council, and shall update this Development Code or the Zoning Map as amended within 30 calendar days of the City Council’s action.

1305.04 Standards for Code Amendments.

The Planning Commission and the City Council shall consider the following standards in reviewing any code amendment to this Development Code, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

- (a) Is the proposed amendment consistent with the purpose and intent of this Development Code as stated under Article 1?
- (b) Does the proposed amendment further or is it compatible with the purpose and intent of the Comprehensive Plan?
- (c) Is the proposed amendment required to adequately address new or changing conditions or to properly implement the Comprehensive Plan?
- (d) Does the proposed amendment reasonably promote the public health, safety, morality or general welfare?

1305.05 Effect of Code Amendment Approval.

- (a) Approval of a code amendment shall be in full force and effect upon its approval by the City Council or upon the stated effective date thereof.
- (b) For a property on which a use, building, structure or other improvements existed in conformity with this Development Code prior to the effective date of a text amendment affecting the property, any such use, building, structure or other improvements no longer in conformance shall be governed by the provisions for Nonconforming Development under Article 1 of this Development Code, as applicable.
- (c) Construction of any use, building, structure, or other improvements for which a building permit has been issued in conformity with this Development Code prior to the effective date of a code amendment may continue to completion as though no change had occurred and, upon completion, shall be governed by the provisions for Nonconforming Development under Article 1 of this Development Code, as applicable.

Section 1306. Annexations.**1306.01 Zoning Classification of Land upon Annexation.**

- (a) Any land subsequently annexed into the City shall be classified by the City Council as to the zoning district or districts at the time of annexation provided that before the zoning decision and annexation are approved, a public hearing is held concerning the zoning decision.
- (b) The City Council in determining the zoning classification may take into account the use restrictions on the land prior to annexation and the Land Use Plan and Comprehensive Plan.

1306.02 Review by Planning Commission.

The Planning Commission shall review the proposed annexation and shall report its recommendation for zoning of the property or properties involved to the City Council within 30 days of the request for a recommendation.

1306.03 Zoning Public Hearing.

- (a) The public hearing held by the City Council concerning the zoning decision may be held in conjunction with the public hearing concerning annexation.
- (b) A notice of the time and place of the public hearing shall be published at least 15 days, but no more than 45 days, prior to said public hearing in the official legal organ of the City of Duluth. The notice shall state the time, place and purpose of the hearing. The notice shall also include the location of the property, the present zoning classification of the property within Gwinnett County, and the proposed zoning classification of the property.
- (c) A sign containing the same information as contained in the published notice shall be placed in a conspicuous location on the property by the property owner not less than 15 days prior to the date of the public hearing.

Section 1307. Violation and Penalties.**1307.01 Violations.**

Any action or inaction which violates the provisions of this Development Code or any permit issued thereunder, 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, as described under Section 1307.06(a). The undertaking of any administrative enforcement action or the imposition of any of the penalties described below shall not prevent such equitable relief.

1307.02 Right of Inspection.

- (a) The Planning and Development Director or the Director's designee, or other responsible enforcement agents, officers or employees of the City shall have authority to enter upon privately owned land for the purpose of performing their assigned and official duties under this Development Code and may take or cause to be made such examination, surveys or sampling as such enforcement officers or employees deem necessary.
- (b) Law enforcement officials or other officials having police powers shall have authority to assist the Director in enforcement activities.

1307.03 Notice of Violation.

If the Planning and Development Director determines that an owner, occupant or other responsible person has failed to comply with the requirements and provisions of this Development Code, the Director shall issue or direct the issuance of a written notice of violation to such owner, occupant or other responsible person. Where a person is engaged in activity covered by this Code without having first secured a permit authorizing the work, the notice of violation shall be served on the owner, occupant or other responsible person in charge of the activity being conducted on the site.

- (a) The notice of violation shall contain:
 - (1) The name and address of the owner, occupant or other responsible person, if known;
 - (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 this Code 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 Development Director by filing a written notice of appeal within 10 working 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 shall be sufficient).
- (b) If the identity of the owner, occupant or the responsible person cannot be determined, the notice of violation may be posted in a prominent and visible location on the property where the violation has occurred or is occurring. Such posting shall establish constructive and sufficient notice of the violation to such owner, occupant or responsible person regarding the violation.

1307.04 Violations; Administrative Actions.

- (a) In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, the City may institute any appropriate action or proceeding to prevent or remedy such violation or attempted violation in lieu of or as a precedent to legal action.
- (b) Before taking any of the following actions, the Planning and Development Director shall first notify the owner, occupant or other responsible person in writing of his or her intended action,

and shall provide a reasonable opportunity, of not less than 10 working days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation.

- (c) In the event the owner, occupant or other responsible person fails to cure such violation after such notice and cure period, the Planning and Development Director may take any one or more of the following actions:

- (1) Stop work order.

The Planning and Development Director may issue a stop work order which shall be served on the owner, occupant or other responsible person. The stop work order shall remain in effect until the owner, occupant or other responsible person has taken the remedial measures set forth 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 owner, occupant or other responsible person to take the necessary remedial measures to cure such violation or violations.

- (2) Cease and desist order.

The Planning and Development Director may issue a cease and desist order when appropriate to the type of violation of this Development Code.

- (3) Withhold certificate of occupancy.

The Planning and Development Director may refuse to issue a certificate of occupancy for any building or other improvements constructed or being constructed on the site until the owner, occupant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

- (4) Suspension, revocation or modification of permit.

The Planning and Development Director may suspend, revoke or modify the permit authorizing a development project. A suspended, revoked or modified permit may be reinstated after the owner, occupant or other responsible person has taken the remedial measures set forth 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 owner, occupant or other responsible person to take the necessary remedial measures to cure such violations.

- (5) Removal of illegal structures.

When a building or other structure has been constructed in violation of this Development Code, the violator may be required to remove the structure or bring said structure into compliance with this Development Code, at the discretion of the Planning and Development Director.

- (6) Restoration of vegetative cover.

When removal of vegetative cover, excavation or fill has taken place in violation of this Development Code, the violator may be required to restore the affected land to its original contours and to restore vegetation, as far as practical, at the discretion of the Planning and Development Director.

- (7) Clean Water Act notifications.

If the Director discovers a violation of this Development Code that also constitutes a violation of provisions of the Clean Water Act as amended, the Planning and Development Director may issue written notification of the violation to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers and the landowner.

1307.05 Penalties.

(a) Civil penalties.

In the event the owner, occupant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 working days, or such greater period as the Planning and Development Director shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall 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 un-remedied after receipt of the notice of violation.

(b) Criminal penalties.

- (1) For intentional and flagrant violations of this Development Code, or intransigence on the part of the owner, occupant or other responsible person, the Planning and Development Director may issue a citation to the owner, occupant or other responsible person, requiring such person to appear in municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for not more than 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (2) In addition to any criminal penalty imposed by the court, the City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Development Code from the convicted party or parties responsible for the violation.

1307.06 Other Remedies.

(a) Equitable relief.

- (1) In any case in which a violation of this Development Code has occurred, the City Council, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain or abate such unlawful use or activity.
- (2) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or if any building, structure or land is used in violation of this Development Code, the City Council or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to stop the violation in the case of such building, structure or land use.

(b) Remedies not exclusive.

The remedies listed in this Development Code are not exclusive of any other remedies available under any applicable Federal, State or local law and the City may seek cumulative remedies.

Section 1308. Liability.

- (a) Neither the approval of a plan under the provisions of this Development Code, nor the issuance of a permit, nor the compliance with provisions of this Code, shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City for damage to any person or property.
- (b) Any permit or other authorization issued in error or otherwise issued contrary to the requirements of this Development Code, or authorizing construction activity or use on a property not allowed by this Development Code, is null and void on its face and shall have no effect or standing.

Article 14. Interpretation and Definitions

Article 14 describes how figures, words, and phrases used in this Development Code are to be interpreted, and provides a glossary of all definitions specifically used in the text of this Development Code.

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Article 14. Interpretation and Definitions

Section 1401. Purpose

This Article describes how figures, words and phrases used in this Development Code are to be interpreted, and provides a glossary of all definitions specifically used in the text of this Development Code.

Section 1402. Interpretation.

1402.01 Responsibility for Interpretation.

- (a) The Planning and Development Director shall be responsible for the interpretation of the requirements, standards, definitions, or any other provision of this Development Code.
- (b) Interpretations of the Planning and Development Director may be appealed under the provisions of this Development Code relating to Appeals.

1402.02 Use of Figures and Examples for Illustration.

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

1402.03 Use of Words and Phrases.

Except as specifically defined herein, all words used in this Development Code have their customary dictionary definitions.

For the purposes of this Development Code, certain words or terms used herein shall be defined as follows:

- (a) Words used in the singular include the plural and words used in the plural include the singular.
- (b) Words used in the present tense include the future tense.
- (c) The word “structure” includes the word “building;” a “building” is a type of structure.
- (d) The word “erected” includes the words “constructed,” “moved,” “located,” or “relocated.”
- (e) The word “lot” includes the words “plot” or “parcel.”
- (f) The words “zoning map” or “zoning atlas” means the Official Zoning Map of the City of Duluth, Georgia.
- (g) The words “road,” “street,” “highway,” and “thoroughfare” have the same meaning with regard to the requirements and restrictions of this Code.
- (h) The word “person” includes the words “individuals,” “firms,” “partnerships,” “corporations,” “associations,” “governmental bodies,” and all other legal entities.
- (i) The words “shall,” “will,” “is to,” and “must” are always mandatory and never discretionary.
- (j) The words “may” and “should” are discretionary.
- (k) The word “and” indicates that all of the conditions, requirements, or factors so connected must be met or fulfilled, while the word “or” indicates that at least one condition, requirement or factor so connected must be met.

- (l) The term “such as” is intended to introduce one or more examples in illustration of a requirement or point, and is intended to mean “including, but not limited, to the following.”
- (m) The terms “include” or “including,” when used to introduce a list of items, is not intended to be exclusive only to the items on the list, but is intended to mean “including, but not limited to, the following.”
- (n) The verbs “zone” and “rezone” have the same meaning and refer to the act of amending the Official Zoning Map through the process established by this Development Code.
- (o) The nouns “zone,” “zoning district,” and “district” have the same meaning and refer to the zoning districts established under this Development Code.
- (p) The word “day” means a calendar day unless otherwise specified as a “work” day or “business” day, which means Monday through Friday exclusive of City-recognized holidays.
- (q) The words “used” or “occupied” include the words “intended, arranged, or designed exclusively to be used or occupied by a particular use or function.”
- (r) References to the “City” and to the City Council and any public officials or appointed bodies of the City not otherwise named by political jurisdiction or defined in this Development Code shall always mean the City of Duluth, Georgia, and its governing body, appointed or employed officials, and appointed bodies as named. These include:
 - (1) The Planning Commission, created as such and appointed as such by the Duluth City Council.
 - (2) The Zoning Board of Appeals, created as such and appointed as such by the Duluth City Council.
 - (3) The City Manager, appointed as such by the Duluth City Council, or the City Manager’s designee.
 - (4) The City Attorney, appointed as such by the Duluth City Council, or the City Attorney’s designee.
 - (5) The Planning and Development Director, the City official appointed as such, or the Planning and Development Director’s designee.
 - (6) The Public Works Director, the City official appointed as such, or the Public Works Director’s designee.
 - (7) Other City officials or employees, such as a “building inspector” shall mean the City official or employee appointed as such by their respective department director.
- (s) References to an administrative department or committee of the City of Duluth shall always mean the department or committee created by the City Council as such. These include:
 - (1) Department of Planning and Development: References to action by the “Planning and Development Department” shall mean action by the Planning and Development Director or by that administrative official to whom responsibility for that action has been assigned by the Planning and Development Director.
 - (2) Public Works Department: A reference to action by the “Public Works Department” shall mean action by the Public Works Director by that administrative official to whom responsibility for that action has been assigned by the Public Works Director.

- (3) City Engineer: A reference to action by the “City Engineer” shall mean action by that administrative official to whom responsibility for that action has been assigned by the Planning and Development Director.
- (t) References to other public officials, departments, or appointed bodies, unless otherwise specified, shall always mean such persons or bodies having jurisdiction over or relative to the City of Duluth, Georgia. These include:
 - (1) The Clerk of the Superior Court of Gwinnett County, Georgia.
 - (2) The Gwinnett County Health Department, and its Environmental Services Division.
 - (3) The Atlanta Regional Commission (ARC).
 - (4) The Georgia Soil and Water Conservation Commission.
 - (5) The Georgia Departments of Community Affairs (DCA), Transportation (GDOT), Human Resources (DHR), Natural Resources (DNR), and DNR’s Environmental Protection Division (EPD).
 - (6) The United States Army Corps of Engineers, the Federal Aviation Administration (FAA), the Federal Emergency Management Agency (FEMA), the Federal Communications Commission (FCC), and the Environmental Protection Agency (EPA).

1402.04 Meaning of Words and Phrases.

- (a) All words and phrases are to be interpreted within the context of the sentence, paragraph, subsection, section, and Article in which they occur.
- (b) Words and phrases specifically relating to a category of use of land or a structure that are defined in this Development Code shall be interpreted as defined herein without regard to other meanings in common or ordinary use, unless the context of the word or phrase indicates otherwise. Words and phrases not defined in this Development Code shall be construed to have the meaning given by common and ordinary use, the meaning of which may be further clarified by use of the word or phrase in the *North American Industrial Classification System* (NAICS) published by the U.S. Department of Commerce, 2012 Edition. See also the Interpretation of Uses Section of the Use of Land and Structures Article of this Development Code.
- (c) Other words and phrases specifically defined in this Development Code shall be interpreted as defined herein without regard to other meanings in common or ordinary use, unless the context of the word or phrase indicates otherwise. Words and phrases not defined in this Development Code shall be construed to have the meaning given by common and ordinary use, the meaning of which may be further clarified by definition of the word or phrase in the *New Oxford American Dictionary*, Third Edition or later.
- (d) Definitions are clearly identified as such and are located throughout this Development Code in the Articles or Sections to which they most readily refer. All definitions, regardless of location within a particular Article of this Code, apply equally to the use of such terms throughout the Code. A Glossary of all defined terms is included in this Article for convenience. However, if differences in wording occur between definitions of a term in a particular Article and in the Glossary of Definitions in this Article, the definition contained within a particular Article of this Code shall control.

Section 1403. Glossary of Definitions

A

Accessory Structures and Uses. A detached structure and/or use on the same lot with, and of a size and nature customarily incidental and subordinate to the principal structure and/or use of land.

Accidental Discharge. An illicit discharge that occurs by chance and without planning or thought prior to occurrence.

Active Use. Any principal, conditional, or accessory use that by its nature does not require non-transparent walls facing a public street or involves the storage of goods or vehicles.

Addition (to an existing building). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

Adult Entertainment Establishment. A commercial establishment licensed in accordance with the City's Adult Entertainment Ordinance, as amended, where adult entertainment, as defined in said Ordinance, is sponsored, allowed, encouraged, condoned, presented, sold, or offered to the public.

Adult Entertainment. Adult entertainment, as defined in the City's Adult Entertainment Ordinance, as amended, by an employee(s) at a properly licensed adult entertainment facility.

Alteration of a Building. Any change, addition, or modification in construction of the structural members of a building, such as walls, partitions, columns, beams, or girders, any change that results in an addition to enclosed floor area of a building or the movement of the building from one location to another.

Antenna. (i) Communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or (ii) Communications equipment similar to equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

Apartment. See "Multi-Family Dwelling."

Applicable Codes. Uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the City or are otherwise applicable in the City.

Applicant. Any person that submits an application.

Applicant (Stormwater). A person submitting a post-development stormwater management application and plan for approval.

Application (Small Cell Wireless Facility). A written request submitted by an applicant to the City for a permit to: (i) collocate a small wireless facility in a right of way; or (ii) install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be located.

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

Architecturally Treated. A structure that is constructed of or covered with such materials as brick, stone, painted or treated wood, or stucco, or covered with artificial representations of such materials that are

visually undistinguishable from the natural materials and have a life expectancy of at least 20 years as evidenced by a manufacturer's warranty.

Area of Future-Conditions Flood Hazard. The land area that would be inundated by the 1%-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 base flood depths from 1 to 3 feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard. The land 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 (including A, A1-30, A-99, AE, AO, AH, and AR on the FHBM or the FIRM), all floodplain and flood prone areas at or below the future-conditions flood elevation, and all other flood prone areas as referenced in Section 833. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated.

Authority Pole. A pole owned, managed, or operated by or on behalf of the City. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

B

Banner. See "Sign, Banner."

Basal Area. The cross-sectional area expressed in square inches, of a tree trunk at diameter breast-height (DBH) expressed herein in terms of "units" per acre.

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year, also known as the one hundred-year flood.

Base Flood Elevation or BFE. The highest water surface elevation anticipated at any given point during the base flood.

Basement. The lower level of a building having a floor-to-ceiling height of at least 6½ feet and a portion of its floor subgrade (below ground level) on at least one side.

Beacon. A stationary or revolving light that flashes or projects illumination, single or multi-colored, in any manner that is intended to attract or divert attention however, this term is not intended to include any kind of lighting device that is required or necessary under the safety regulations described by the Federal Aviation Administration or similar agencies.

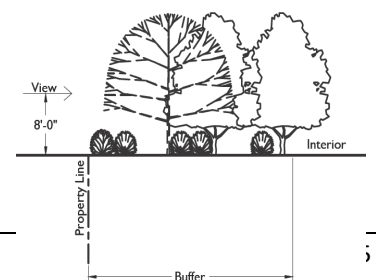
Best Management Practices (BMPs). Sound conservation and engineering practices that prevent and minimize erosion and resultant sedimentation, consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Commission as of January 1 of the year in which the land-disturbing activity was permitted.

Block. A piece or parcel of land entirely surrounded by public streets (other than alleys), railroads, or other rights-of-way, or boundaries of the development within which the block is located.

Board (DNR). The Board of Natural Resources.

Buffer:

- (1) **Construction Buffer.** A type of buffer which is temporary and remains in effect during the construction of a project.



Example of a Natural Buffer

- (2) **Natural Buffer.** Buffers that contain deciduous or perennial vegetation, including evergreen shrubs and trees suitable to local growing conditions that provide an opaque visual screen during all seasons of the year.
- (3) **Stream Buffer.** The area of land immediately adjacent to the banks of a stream in its existing or enhanced state of vegetation.
- (4) **Structural Buffer.** A buffer that creates a visual screen through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.
- (5) **Watershed Buffer.** A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to reservoirs or perennial streams within a water supply watershed.
- (6) **Zoning Buffer.** Land area used to visibly separate one use from another through screening and distance to shield or block noise, light, glare, or visual or other conditions, to block physical to non-similar areas, or to reduce air pollution, dust, dirt, and litter.

Buildable Area of Lot. The area of lot within the setback lines as defined by this Development Code.

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

Building Canopy. See under “Canopy”.

Building Height. The height of a building is the vertical distance measured from the mean elevation of the finished lot grade at the front of the building to the highest point on the deck line of a mansard roof, the highest edge on a shed roof, or the ridge of a hip, gambrel or gable roof. For flat roofs, the height shall be measured to the top of the roof or parapet along the exterior building wall, whichever is higher.

Building Line. A line formed by the outer face of the exterior wall of a building, or portion thereof, and the surface of the ground.

Building, Main. A building in which is conducted the principal use of the lot on which it is situated. Also referred to as a “Principal Building.”

Building Sign. A sign that is fastened to, (in any manner), projects from, or is placed upon the exterior wall, or a window, door, or roof of a building. The term “building sign” includes, but is not limited, to the following:

- (1) **Awning Sign.** A sign imposed, mounted, or painted on an awning.
- (2) **Building Marker.** A sign composed of concrete, bronze, or other permanent material that is built into the surface of the building at the time of its construction.
- (3) **Canopy Sign.** A sign imposed, mounted, or painted on a canopy, as defined herein.
- (4) **Mansard Sign.** A sign imposed, mounted, or painted on the fascia portion of a mansard roof.
- (5) **Marquee Sign.** Any sign attached flat against or on a permanent marquee of a building.
- (6) **Projecting Sign.** A sign affixed flat to a wall and extending more than 6 inches from the surface of such wall, or any sign attached to and extending at an angle from a wall surface (usually perpendicular).
- (7) **Roof Sign.** A sign that is mounted on, applied to, or otherwise structurally supported by the roof of a building (other than the fascia portion of a mansard roof).

- (8) **Under-Canopy Sign.** A display attached to the underside of a marquee or building canopy and protruding over a pedestrian walkway.
- (9) **Wall (or Façade) Sign.** A sign that is fastened to, painted, on or placed directly on the exterior wall of a building façade or building canopy, with the sign face parallel to the wall or canopy face.
- (10) **Window Sign.** A sign that is applied, painted, or placed on, behind, or inside a windowpane or a glass door and intended to be viewed from outside the building.

Building Story. See “Story, Building.”

Business Park. One or more buildings located on a property in common ownership, management, or operation, of units that are owned, leased, or rented primarily for office, institutional, or light industrial purposes.

C

Caliper. A standard of trunk measurement for understory or replacement trees. Caliper inches are measured at the height of 6 inches above the ground for trees up to and including 4-inch caliper and 12 inches above the ground for trees larger than 4-inch caliper.

Canopy:

- (1) **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.
- (2) **Freestanding Canopy.** A freestanding roof-like structure supported by columns intended to shield a vehicular driveway or service area from the elements.

Certified Personnel. A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

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

Character Area. A portion of the city designated as any one of the various “character areas” created within the City’s Comprehensive Plan and shown as to its boundaries and extent on the Future Development Map subtitled “Character Areas” included as a part of said Plan, and as may be amended from time-to-time by the City Council.

Chattahoochee Corridor. All land within 2,000 feet of the banks of the Chattahoochee River, including any impoundments thereon, or within the floodplain, whichever is greater, from directly below Buford Dam downstream to the downstream limits of Fulton and Douglas counties, including the entire bed of the river and any improvements and all islands therein.

City Separate Storm Sewer System. Any conveyance or system of conveyances which is:

- (1) Owned or maintained by the City;
- (2) Not a combined sewer; and,
- (3) Not part of a publicly owned treatment works.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Clear Cutting. The broad removal of all trees and /or vegetation from a particular area.

Clearing. The removal of vegetation from a property, whether by cutting or other means.

Collocate or Collocation. To install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

Column Sign. See under “Freestanding Sign”.

Commercial Speech. The expression of an idea, opinion, or message that directs or attracts attention to a business operated for profit; or to a product, commodity, or service for sale, trade, barter, swap, or lease; or to any other commercial interest or activity.

Commission (GSWCC). The Georgia Soil and Water Conservation Commission.

Communications Facility. The set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

Communication Services. Cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.

Communication Services Provider. A provider of communications services.

Concealment Element. Any design feature, including but not limited to painting, landscaping, shielding requirements, and restrictions on location, proportions, or physical dimensions in relation to the surrounding area or the structure which supports a Wireless Facility, that are intended to make a Wireless Facility or any supporting structure less visible to the casual observer.

Condominium. A multiple unit dwelling in which each dwelling unit is owned or financed by the occupant, but in which halls, entrance ways, common areas, and underlying lands are owned jointly.

Conifer Tree. Any tree with needle leaves and a woody cone fruit including, but not limited to, pine, juniper, and cedar species.

Conservation Easement. An agreement between a land owner and the (local jurisdiction) or other government agency or land trust that permanently protects open space or greenspace on the owner’s land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

Consolidated Application (Small Cell Wireless Facility). An application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.

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.

Construction Buffer. See under “Buffer”.

Conveyance. An aboveground or underground natural or manmade drainage feature, that provides for the collection and movement of stormwater, and shall include but not be limited to concrete or metal pipes, ditches, depressions, swales, roads with drainage systems, highways, city streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural stormwater controls, drainage channels, reservoirs, rights-of-way, storm drains, culverts, street gutters, oil/water separators, modular pavements and other similar drainage structures.

Conveyor Car Wash. A commercial car wash where the car moves on a conveyor belt during the wash. The driver of the vehicle can remain in the vehicle or wait outside of the vehicle.

Corridor, Watershed. All land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in this Code Division.

CPESC. Certified Professional in Erosion and Sediment Control with current certification by Certified Professional in Erosion and Sediment Control Inc., a corporation registered in North Carolina, that is also referred to as CPESC or CPESC, Inc.

Critical Root Zone. The minimum area beneath a tree that must be left undisturbed in order to preserve a sufficient Critical Root Zone (CR) will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one times the number of inches of the trunk diameter. Example. The CRZ radius of a 20 inch diameter tree is 20 feet.

Customary Home Occupation. An occupation, service, profession or enterprise conducted entirely within a dwelling and which is carried on by a resident thereof and which is clearly incidental and secondary to the use of the dwelling for residential dwelling purposes.

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.

D

Daycare Facility. The use of a building or premises for the care and supervision of children (who do not reside on the property), for periods of less than 24 hours. Establishments are licensed or commissioned by the Georgia Department of Human Resources to care for infants and preschool children. Some offer pre-kindergarten education programs or provide care services for older children. Child day care facilities are classified as follows:

- (1) **Family Day Care.** An accessory use to a private residence that operates as a daycare facility for up to six children, including the operator's own pre-school age children.
- (2) **Group Day Care Home.** A daycare facility for 18 or fewer children.
- (3) **Day Care Center.** A daycare facility for 19 or more children.

Days. The term "days" shall mean working days exclusive of holidays authorized by the Mayor and Council and weekends, unless the term is stated as "calendar days" or the context implies otherwise.

Decorative Pole (Small Cell Wireless Facility). An authority pole that is specially designed and placed for aesthetic purposes.

Density. The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, that shall be calculated by taking the total gross acreage and subtracting any land identified as a flood prone area as defined in the Floodplain Management section of the Environmental Protection Article of this UDC or within any electricity or gas transmission easement or right-of-way.

Density Factor. A unit of measure used to prescribe the calculated tree coverage on a site.

Department (DNR). 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 Certified Professional in Erosion and Sediment Control Inc.

Detention, Stormwater. The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

Detention Facility. A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

Developer. A person who undertakes land development activities.

Development:

- (1) 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.
- (2) A land development or land development project.

Development Activity. Any alteration of the natural environment that requires the approval of a development or site plan and issuance of a development permit. Development Activity shall also include 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 Development Activity, and includes, but is not limited to, a soil erosion permit, clearing and grubbing permit, land disturbance permit or building permit.

Development Plans. The detailed and professional plans showing the layout and design, site work and construction activities proposed for a project (other than architectural building plans) and including the Preliminary Plat or Site Plan (as applicable), Grading Plan, Tree Preservation/Replacement Plan, Erosion and Sediment Control Plan, Buffer and Landscape Plan, and construction drawings for streets, storm water drainage facilities, sanitary sewers, water supply facilities, and other site improvements.

Diameter Breast Height (DBH). The standard measure of overstory tree size (for trees existing on a site). The tree trunk is measured at a height of 4½ feet above the ground. If a tree splits into multiple trunks below 4½ feet, measure the trunk at its most narrow point beneath the split.

Director (DNR). The Director of the Environmental Protection Division or an authorized representative.

Discharge. The direct or indirect release of water, fluid, materials or other matter to a conveyance or surface that drains to a conveyance.

District. The 15th Soil and Water Conservation District.

Division (EPD). The Environmental Protection Division (EPD) of the Department of Natural Resources.

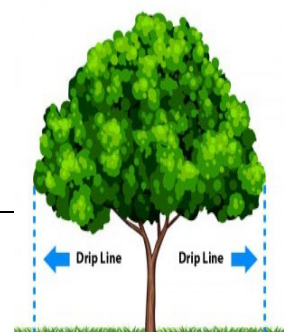
Drainage Easement. An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

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 storm water management, drainage control, or flood control purposes.

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

Drip Line. A line on the ground established by a vertical plane extending from a tree’s outermost branch tips down to the ground; i.e. the line enclosing the area directly beneath the tree’s crown from which rainfall would drip.

Duplex. See “Two-Family Dwelling (Duplex).”



Dwelling. Any building, or portion thereof, that is designed for or used for residential purposes.

Dwelling, Multi-Family. See “Multi-Family Dwelling.”

Dwelling, Single-Family Detached. See “Single-Family Detached Dwelling.”

Dwelling, Two-Family (Duplex). See “Two-Family Dwelling (Duplex).”

Dwelling Unit. A room or suite of two or more rooms that is designed for the occupancy, cooking, and sleeping of one person or more than one person living as a single household.

E

Electric Supplier. (Small Cell Wireless Facility). Any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

Electric Vehicle Charging Station. A public or private parking space that is served by electric vehicle supply equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle.

Elevated Building. A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Eligible Facilities Request (Small Cell Wireless Facility). An eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

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:

- (1) A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.
- (2) A plan required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum, protections at least as stringent as the State General Permit, best management practices, and applicable requirements in Division I of Article 10.

Existing Construction. Any structure for which the "start of construction" commenced before December 17, 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 final site grading or the pouring of concrete pads) is completed before December 17, 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. FEMA means the Federal Emergency Management Agency.

Extended Detention. The detention of stormwater runoff for an extended period, typically 24 hours or greater.

Extreme Flood Protection. Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

F

Façade. The exterior vertical surfaces of a building that comprise the front, side or rear wall.

Family. One or more persons occupying a dwelling unit and living as a single household, as distinguished from persons occupying a boarding house or motel, as herein defined.

FCC. The Federal Communications Commissions of the United States.

Feather Banner. A banner mounted on a pole. Such signs may be wind-activated (see “sign, animated”) or rigidly mounted in a stationary position.

Fee (Small Cell Wireless Facility). A one-time, nonrecurring charge based on time and expense.

FEMA. The Federal Emergency Management Agency.

Festoons. Strings of light bulbs or other lighted devices, and strings of ribbons, tinsel, pennants, streamers, pinwheels, or other similar devices designed to move in the wind.

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 equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches, or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

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

Flag. A sign made of paper, woven natural, or synthetic fabric, thin plastic or similar lightweight pliable material that is normally displayed by flying from a pole as a wind-activated device, but is not otherwise defined herein as a banner, pennant, or feather banner.

Flood or Flooding:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. the overflow of inland or tidal waters; or,
 - b. the unusual and rapid accumulation or runoff of surface waters from any source.
- (2) A volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

Flood Hazard Boundary Map or FHBM. An official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as zone A.

Flood Insurance Rate Map or FIRM. An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.



Examples of Feather Banners

Flood Insurance Study or FIS. The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain. Any land area susceptible to flooding.

Floodplain, 100 year. Those lands subject to flooding that have at least a 1% probability of flooding occurrence in any calendar year, and specifically, the floodplain as shown on the Federal Emergency Management Agency Map (FEMA).

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway or Regulatory Floodway. The channel of a stream or other watercourse and the adjacent areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the base flood elevation more than 1 foot.

Floor Area, Gross. The sum of all floors of a structure as measured to the outside surfaces of exterior walls or the center of connected or common walls, including; common public areas (such as lobbies), restrooms and hallways, spaces devoted exclusively to elevator shafts but, excluding; internal parking and loading areas, attics, porches, balconies and other areas outside of the exterior walls of the building. Gross floor area is used to determine the building sizes for all but single-family dwellings and to determine required parking when floor area is the designated measure for a use.

Floor Area, Heated. The gross floor area of all spaces within a dwelling or dwelling unit that are heated by mechanical means, measured to the inside surfaces of exterior walls, excluding: porches, balconies, attics, unfinished basements, garages, patios, and decks.

Floor Area, Single-Family Dwelling. The floor area of a single-family dwelling is the gross horizontal area of several floors of the one-family residential structure, excluding carports, unfinished basements, attics, and open porches.

Floor, Ground. The floor of a building that is nearest the surrounding surface of the ground.

Flowing Stream. Any stream that is portrayed on the most current United States Geologic Survey 7.5 minute quadrangle for the affected area.

Fluorescent Color. A color that is intense, brilliantly colored, and seemingly emitting light, such as day glow (day-glo) colors.

Freestanding Canopy. See under “canopy.”

Freestanding Sign. A permanent sign that is attached to or part of a completely self-supporting structure, other than a building. The supporting structure shall be set firmly in or below the ground surface and shall not be attached to any building or any other structure, whether portable or stationary. The term “freestanding sign” includes, but is not limited to, the following:

- (1) **Pole Sign.** A sign that is mounted on one or more freestanding stanchions or columns such that the sign body is elevated above the ground by such supporting stanchions or columns, and such supporting stanchions or columns are each less than 10% of the width of the sign body.
- (2) **Column Sign.** A sign that is mounted on one or more freestanding stanchions or columns such that the sign body is elevated above the ground by such supporting stanchions or columns, and such supporting stanchions or columns are each 10% of the width of the sign body or more.

- (3) **Monument Sign.** A freestanding sign in which the entire bottom of the base of the sign structure is in contact with the ground, providing a solid and continuous background for the sign from the ground to the top of the sign structure; the base of which is as wide as or wider than the total width of the sign body plus any supporting columns.
- (4) **Hybrid Monument Sign.** A freestanding sign in which the entire bottom of the base of the sign structure is in contact with the ground, but a solid and continuous background for the sign from the ground to the top of the sign structure is *not* provided; the base of which is as wide as or wider than the total width of the sign body plus any supporting columns.

Frontage, Lot. The distance over which the boundary line of the lot and the street line are coincident.

Functionally Dependent Use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

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 flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.

Future-Conditions Floodplain. Any land area susceptible to flooding by the future-conditions flood.

Future-Conditions Hydrology. The flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

G

Generalized Wetlands Map. The current U.S. Fish and Wildlife Service National Wetlands Inventory maps for the City of Duluth, Georgia.

Grading:

- (1) The placement, removal, or movement of earth by use of mechanical equipment on a property.
- (2) Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling, and shaping (or any combination thereof) and shall include the land in its cut or filled condition.

Green Infrastructure. Stormwater management systems that mimic nature by soaking up and storing water.

Greenspace or Open Space. Permanently protected areas of the site that are preserved in a natural state.

Ground Cover. Low growing, spreading plants, other than turf grass, such as, but not limited to, ivy, liriopse, juniper, mondo grass, or sedge.

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

Grubbing. The removal of stumps or roots from a site.

Guy or Guy Wire. A cable used to support or stabilize a freestanding pole or structure, such as a lattice telecommunications or citizen's band antenna, utility pole, or traffic signal stanchion.

H

Hardwood Tree. Any tree that is *not* coniferous (cone-bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Heated Floor Area. See “Floor Area, Heated.”

Heavy Truck. Any vehicle, (except recreational vehicles, vehicles displaying restricted plates, buses used in transportation of chartered parties, and government owned vehicles), used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property and that is:

- (1) A power unit having a gross vehicle weight in excess of 26,000 pounds;
- (2) A power unit having three or more axles, regardless of weight; or
- (3) Used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

Highest Adjacent Grade. The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

Historic District (Small Cell Wireless Facility). (i) Any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the secretary of the interior of the United States in accordance with Section VI.D.1.a.i- v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act'; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

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 and determined as eligible 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 and determined as eligible by communities with historic preservation programs that have been certified either:
- (5) By an approved state program as determined by the secretary of the interior, or
- (6) Directly by the secretary of the interior in states without approved programs.

Holiday or Seasonal Event. A day established as a legal holiday by federal, state or local law; a nationally recognized holiday such as Halloween or Mother’s Day; a nationally recognized calendar season such as Fall or Spring; a religious day or term of days such as Easter, Yom Kippur or Christmas, or Lent, Ramadan or Hanukah.

Hotspot. An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Household. An individual living alone or a group of individuals living together in a single dwelling unit, sharing common use of and access to all living and eating areas, bathrooms, and food preparation areas, who mu-

tually combine their efforts and share responsibilities for domestic chores such as child rearing, cleaning and cooking in a permanent and long-term relationship.

Hybrid Monument Sign. See under “Freestanding Sign.”

Hydrologic Soil Group (HSG). A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

I

Illicit Discharge. Any direct or indirect non-stormwater discharge to the city separate storm sewer system.

Illegal Connection. Shall mean any of the following:

- (1) Any pipe, open channel, drain or other conduit, whether natural or manmade, which is used exclusively to drain a non-stormwater discharge to the City's separate storm sewer system; or
- (2) Any pipe, open channel, drain or other conduit, whether natural or manmade, that was designed, installed or redirected for the purpose of draining a non-stormwater discharge into the City's separate storm sewer system; or
- (3) Any pipe, open channel, drain or other conduit, whether natural or manmade, which is connected to the city separate storm sewer system and which has not been documented in plans, maps, or equivalent records and approved by the city regardless of whether such pipe, open channel, drain or other conduit, whether natural or manmade, was permissible under law or practices applicable or prevailing at the time the connection was made, or has been previously allowed, permitted, or approved by the city or any other authorized enforcement agency. "Illegal connection" expressly includes, without limitation, those connections made in the past.

Illuminated Sign. See “Sign, Illuminated.”

Impervious Cover. A surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

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

Incidental Sign. See “Sign, Incidental.”

Industrial Activity, Regulated. Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26(b)(14).

Industrial Stormwater Permit. A National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration. The process of percolating stormwater runoff into the subsoil.

Iridescent Color. A color that when seen at different angles has a play of lustrous rainbow-like colors; pearlescent.

Inspection and Maintenance Agreement. A written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

J

Jurisdictional Wetland.

- (1) An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
- (2) An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

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

K

Kiosk. A freestanding sign structure, often cylindrical in shape, intended to be viewed from all sides and erected for the purpose of posting signs, notices, or other public announcements. Kiosks that are composed of flat faces are treated as multi-faced signs.

L

Land Development:

- (1) (verb) All activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes, devoted strictly to the cultivation of the land, dairying, or animal husbandry. Such activities include land disturbance (such as but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land) and the construction of improvements (such as, but not limited to, streets, driveways or parking areas, water or sewer mains, storm water drainage facilities, sidewalks) or other structures or impervious cover permanently placed on or in the property.
- (2) (noun) Where appropriate to the context, the term development also may be used to denote a specific subdivision or project that is a single entity or intended to be constructed as an interrelated whole, whether simultaneously or in phases.

Land Development Activity. Those actions or activities that comprise, facilitate, or result in land development.

Land Development Project. A discrete land development undertaking.

Land Disturbance. Any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, clearing and grubbing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices. Includes the term "Land-Disturbing Activity."

Land Disturbance Activity. Those actions or activities that comprise, facilitate or result in land disturbance.

Land Disturbance Permit. Any permit (other than a Building Permit) issued by the City of Duluth that authorizes clearing or grading activities on a site or portion of a site. Said permit may be Clearing, Clearing and Grubbing, Grading, or a Development Permit as defined and authorized under this Development Code.

Landscape Materials. Any combination of living plant materials, nonliving materials (such as rocks, pebbles, wood chips, mulch and pavers) and decorative features such as sculpture, patterned walks, fountains, and pools. This definition includes synthetic landscaping materials that are visually indistinguishable from natural materials.

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.

Large Water Supply Watershed. A watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Larger Common Plan of Development or Sale. A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, “plan” means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

Law. Includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

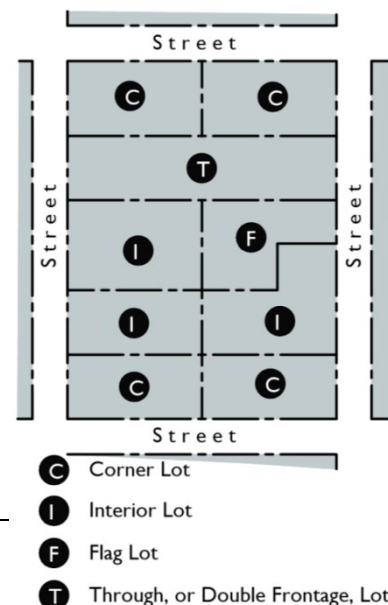
Leased Sign. An agreement by which a property owner conveys (usually for a specified rent), to other persons, permission to erect and maintain a sign upon their property.

LED Sign. Any sign or portion thereof that uses light-emitting diode technology or other similar semiconductor technology to produce an illuminated image, picture, or message of any kind whether the image, picture, or message is moving or stationary. This type of sign includes any sign that uses LED technology of any kind, whether conventional (using discrete LEDs), surface-mounted (otherwise known as individually mounted LEDs), transmissive, organic light-emitting diodes (OLED), light-emitting polymer (LEP), organic electro polymer (OEL), or any other similar technology. An LED sign is considered to be a form of electronic changeable copy sign (see under “Sign, Changeable Copy”).

Local Issuing Authority (LIA). The Duluth City Council or its assigned or designated representative, which shall be responsible for administering this Development Code and has been certified pursuant to subsection (a) O.C.G.A. 12-7-8.

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

- (1) **Corner Lot.** A lot that occupies the interior angle of two street lines that make an angle of less than 135 degrees with each other.
- (2) **Double Frontage Lot.** A lot other than a corner lot abutting upon two or more streets.
- (3) **Interior Lot.** A lot having frontage on only one street.
- (4) **Flag Lot.** A lot having a street frontage and initial lot width notably less wide than the body of the lot (usually where the principal



building is intended to be located), such that the lot appears to be a “flag” on a “pole” extending to the street frontage.

Lot Area. The computed ground area bounded by the front, side, and rear lot lines.

Lot Building Area. The area of a lot encompassed by front, sides, and rear yard setbacks or building line as required by the Development Code.

Lot Coverage. The computed ground area that is covered by buildings, structures, accessory structures, driveways, parking areas, and any other impervious surface.

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

Lot Line. The boundary dividing a given lot from the street or adjacent lots; the boundary defining the limit of ownership of a property.

- (1) **Front Lot Line.** Any boundary line of a lot that abuts a street. A lot adjacent to more than one street will have more than one front lot line.
- (2) **Rear Lot Line.** Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.
- (3) **Side Lot Line.** Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.

Lot of Record. A lot or parcel whose existence, location, and dimensions have been recorded in the Office of the Clerk to Superior Court of Gwinnett County.

Lot Width. The horizontal distance between the side lot lines measured along the front principal building line.

Lowest Floor. The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this article.

M

Manufactured Home:

- (1) A structure, transportable in one or more sections that, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or when erected on site, is 320 or more square feet and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes; plumbing, heating, air- conditioning, and electrical systems contained therein, except that such term shall include any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., as amended. This definition excludes travel trailers, recreational vehicles, and mobile homes as defined below.
- (2) When used strictly in regard to floodplain management, a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel

trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured Home Park. A tract of land in individual ownership that has been developed with all necessary facilities and services for the placement of two or more manufactured homes for non-transient use.

Marquee Sign. See under “Building Sign.”

Mean Sea Level. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article the term is synonymous with national geodetic vertical datum (NGVD) and/or the North American vertical datum (NAVD) of 1988.

Metropolitan River Protection Act. A state law referenced as O.C.G.A. 12-5-440 et seq., that addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Micro Wireless Facility. A small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

Miscellaneous Building Sign. A building sign (as defined herein), other than a principal building sign, a temporary event sign, or an incidental sign, commonly found on the wall of a nonresidential use property.

Miscellaneous Freestanding Sign. A freestanding sign, other than a freestanding principal sign, temporary event sign, or incidental sign, commonly found on multi-family and nonresidential use properties located at entrance and exit driveways, drive-through windows, internal driving lanes, parking lots, designated handicap parking spaces, etc.

Mobile Home. A structure, transportable in one or more sections, that, in the travelling mode, is eight body feet or more in width, or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976.

Modular Home. A factory fabricated, transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure to be used for residential purposes. A modular home shall be designed and constructed in compliance with Georgia State Minimum Standard One-and-Two Family Dwelling Code and shall be certified by the manufacturer to meet the approval of the State Building Administrative Board (SBAB) to meet the same requirements as an on site-built home within the City of Duluth. The term shall not include manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq.



Illustrative Example of a
Modular Home

Monument Sign. See under “freestanding sign.”

Mobile Kitchens. Mobile Kitchens are motorized vehicles that provide the ability to independently cook, prepare, and sell food.

Multi-Family Dwelling. A residential building designed exclusively for occupancy by three or more families in separate dwelling units living independently of each other.

- (1) **Apartment.** A multi-family dwelling in which a dwelling unit may be located above another.
- (2) **Townhouse.** A multi-family dwelling in which the dwelling units may adjoin one another only at the vertical walls.

- (3) **Triplex.** A detached residential structure containing three dwelling units, designed for occupancy by not more than four families living independently of each other.
- (4) **Quadruplex.** A detached residential structure containing four dwelling units, designed for occupancy by not more than four families living independently of each other.

N

National Geodetic Vertical Datum (NGVD). As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the state 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.

Natural Buffer. See under “Buffer.”

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 colloiddally dispersed or suspended particles are present.

New Construction. Any structure (see definition in this Section) for which the "start of construction" commenced after December 17, 1975 and includes any subsequent improvements to the structure.

New Development. A land development activity on a previously undeveloped site.

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 17, 1975.

NOI. A Notice of Intent form provided by EPD for coverage under the State General Permit.

Non-Development Activity. Any alteration of the natural environment that does not require development or site plan approval, but that would include the proposed removal or destruction of any trees. Any removal of trees that constitutes Development Activity as that term is herein defined shall not constitute Non-Development Activity.

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

Non-Stormwater. Any surface flow, runoff, drainage, or discharge that is not composed entirely of stormwater and which may include pollutants, but that excludes:

- (1) Water from those sources described in this article; and/or,
- (2) Any discharge permitted under 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 city separate storm sewer system.

Nonresidential Use. See “Use, nonresidential.”

Nonstructural Stormwater Management Practice or Nonstructural Practice. Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

North American Vertical Datum (NAVD) of 1988. A vertical control used as a reference for establishing varying elevations within the floodplain.

NOT. A Notice of Termination form provided by EPD to terminate coverage under the State General Permit.

O

Off-Site Facility. A stormwater management facility located outside the boundaries of the site.

On-Site Facility. A stormwater management facility located within the boundaries of the site.

Open Space. See “Greenspace or Open Space.”

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

Outdoor Lighting.

- (1) **Candela.** A measure of luminous intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction. One candela is one lumen per steradian (lm/sr).
- (2) **Candela Diagram.** Diagram of light power produced by a source and the value of luminous intensity is given directions. A picture of how much light is shining out of a fixture and in what direction.
- (3) **Candlepower.** Luminous intensity expressed in candelas.
- (4) **Color Rendering Index (CRI).** A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100.
- (5) **Contrast.** The ratio of the luminance of an object to that of its immediate background.
- (6) **Cut-off Angle.** The angle, measured up from nadir, between the vertical axis and the first line of sight at which the bare source is not visible.
- (7) **Efficacy.** A measurement of the ratio of light produced by a light source to the electrical power used to produce that quality of light, expressed in lumens per watt. Efficacy is an important determinant of energy efficiency in lighting equipment.
- (8) **Footcandle.** A unit of illuminance. One foot footcandle is one lumen per square foot (lm/ft²).

- (9) **Floodlight.** A light fixture designed to light an object to a luminance greater than its surroundings. The beam spread of floodlights may range from narrow field angles of 10 degrees to wide angles (more than 100 degrees).
- (10) **Fluorescent Lamp.** A lamp that produces light by means of electric arc that excites a phosphor coating deposited on the inside of a glass bulb.
- (11) **Glare.** The sensation produced by luminances within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility.
- (12) **Glare, Blinding.** Glare that is so intense that for an appreciable length of time after it has been removed, no object can be seen.
- (13) **Glare, Direct.** Glare resulting from insufficiently shielded light sources or areas of excessive luminance within the field of view.
- (14) **Glare, Disability.** The effect of stray light in the eye whereby visibility and visual performance are reduced.
- (15) **Glare, Discomfort.** A Glare that produces discomfort. It does not necessarily interfere with visual performance or visibility.
- (16) **Glare, Reflected.** A Glare resulting from reflections of high luminances in polished or glossy surfaces in the field of view.
- (17) **High Intensity Discharge (HID) Lamp.** A lamp that generates large quantities of light with electric arches through small tubes. The tubes also contain phosphors that generate additional light output and color.
- (18) **Illuminance.** The amount of light falling on a surface- measured in lux (lx) or foot-candles (fc).
- (19) **Illumination.** An alternative term for illuminance. Commonly used in qualitative or general sense to designate the act of illuminating or the state of being illuminated.
- (20) **Lamp.** A generic term for a man made source of light (e.g. bulb).
- (21) **Light.** Radiant energy that is capable of exciting the retina and producing a visual sensation. The visible portion of the electromagnetic spectrum extends from about 380 to 770 nanometers.
- (22) **Luminaire.** A complete lighting unit, consisting of a lamps, reflector, refractor, or lens, wiring, and sockets. Often referred as “fixture.”
- (23) **Light Loss Factor (LLF).** The ratio of illuminance for a given area to the value that would occur if lamps operated at their initial rated lumen output and if no system variation or depreciation occurred.
- (24) **Light Trespass.** A subjective perception of undesirable illumination including the following examples:
 - The classic “light shining in a window”
 - Unwanted light on an adjacent property
 - Excessive brightness in the normal field of vision (nuisance glare)
- (25) **Lumens.** In physics, the SI unit of luminous flux. Photometrically, it is the luminous flux emitted per second within a unit solid angle (one steradian) by a point source having a uniform luminous intensity of one candela.

- (26) **Luminaire.** A complete lighting unit consisting of one or more lamps (light sources) together with the parts designed to control the light distribution, and other mechanical and electrical components.
- (27) **Luminaire, Cutoff.** A luminaire light distribution is designated as cut off when candlepower per 1000 lamp lumens does not numerically exceed 25 (2.5%) at an angle of 90 above nadir (horizontal), and 100 (10%) at a vertical angle of 80 above nadir.
- (28) **Luminance.** The emitted or reflected light from a surface; related directly to perceived “brightness.” The unit of luminance is the candela per square meter (cd/m²).
- (29) **Luminous Flux.** Radiant flux (radiant power); the time rate of flow of radiant energy evaluated in terms of a standardized visual response.
- (30) **Luminous Intensity.** The luminous flux per unit solid angle in the direction in question. May be expressed in candelas or lumens per steradian (lm/sr).
- (31) **Lux.** The SI unit of illuminance. One lux is one lumen per square meter (lm/m²).
- (32) **Nighttime.** The hours between the end of evening civil twilight and the beginning of morning civil twilight. Civil twilight ends in the evening when the center of sun’s disk is 6 degrees below the horizon, and begins in the morning when the center of the sun’s disk is 6 degrees below the horizon.
- (33) **Spill Light.** Light shining beyond a facility that may annoy occupants of the adjacent property.
- (34) **Watt.** A unit used to measure electric power. One watt equals one joule/second.
- Outfall.** The location where storm water in a discernible, confined, and discrete conveyance, leaves a facility or site or, (if there is a receiving water on site), becomes a point source discharging into that receiving water.
- 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), and that are intended to protect downstream properties from flooding for the 2-year through 25-year frequency storm events.
- Overstory Tree.** Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height of greater than 40 feet.
- 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.

P

Parapet Wall. A building façade that extends above the eave line or edge of a roof.

Parcel. See “Lot.”

Pennant. A 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” shall not include a “banner” or a “flag” as regulated by this Development Code.

Perennial Stream:

- (1) A watercourse having a source, terminus, banks, and channel through which water flows on a continuous basis as depicted on the most recent United States Geological Survey 7.5-minute quadrangle map (scale 1:24,000).



A Parapet Wall

- (2) A stream that flows throughout the whole year as indicated on a USGS Quad map.

Permit, Land Disturbance. The authorization necessary to conduct a land-disturbing activity under the provisions of this Development Code.

Permit (Small Cell Wireless Facility). A written authorization, in electronic or hard copy format, required to be issued by the City to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

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

Person (Small Cell Wireless Facility). An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

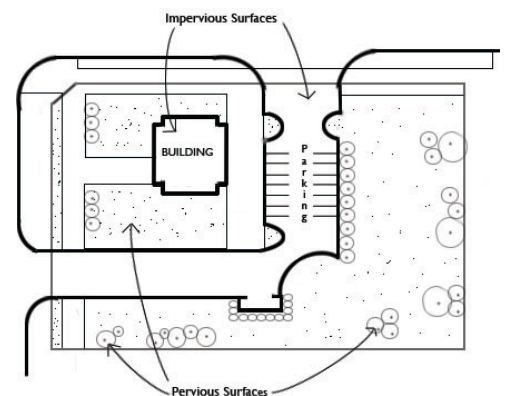
Personal Care Home. A profit or non-profit facility, home, or structure licensed by the State of Georgia for the protective care of persons, both adult and adolescent, who need a watchful environment, but do *not* have an illness, injury, or disability that requires chronic or convalescent care, including medical and nursing services. Personal care facilities are categorized as follows:

- (1) **Congregate Personal Care Home.** A personal care home for adults that offers care to more than 15 persons.
- (2) **Family Personal Care Home.** A personal care home for adults that offers care to no more than six persons.
- (3) **Group Personal Care Home.** A personal care home for adults that offers care to no more than 15 persons.

Personal (Noncommercial) Speech. The expression of an idea, opinion, or message that does not direct or attract attention to a business operated for profit; or to a product, commodity, or service for sale, trade, barter, swap, or lease; or to any other commercial interest or activity.

Pervious Surface:

- (1) Materials that allow for water penetration such as mulch, crushed stone, elevated boardwalks with spacing between boards, and specially formulated pervious concrete designed to allow for water penetration;
- (2) All that area of land that can be landscaped or planted, allows natural passage through by water, and is not covered by man-made materials or structures such as buildings or paving.



Phase or Phased. Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Planned Center. A single office, medical, commercial, or industrial property that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship. A planned center may consist of a single building, such as a shopping center, or multiple buildings, such as an office condominium center.

Plantable Area. The pervious surface area (expressed in square footage) available for the preservation or planting of trees on a single-family subdivision lot. Plantable Area shall not include that portion of the lot that is covered by buildings and structures permitted pursuant to the maximum lot coverage standards of the Development Code.

Pocket Park. A “pocket park” or “green” is a landscaped area larger than 0.33 acres constructed for community gathering or play, or visual enhancement.

Pole (Small Cell Wireless Facility). A vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

Pole Sign. See under “Freestanding Sign.”

Pollutant. Shall mean anything that 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; process waste water and wash water; 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 manmade or man-induced alteration of the chemical, physical, biological, thermal and radiological integrity of water.

Pollution Susceptibility. The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.

Pollution Susceptibility Map. The relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. (Georgia Department of Natural Resources Hydrologic Atlas 20: Groundwater Pollution Susceptibility Map of Georgia.)

Portable Sign. See “Sign, Portable.”

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

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Pre-Development. The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

Principal Building. The building in which is conducted the principal use of the parcel on which it is located. Parcels with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Principal Building Setback Line. A line delineating the minimum allowable distance between a property line (or the right-of-way line) of an abutting street and a principal building on a lot.

- (1) **Front Building Setback.** The minimum allowable distance between the right-of-way line of any abutting street and any part of a principal building on a lot. The front setback distance is applied along the full length of the right-of-way line and is parallel to it.
- (2) **Rear Building Setback.** The minimum allowable distance between a rear lot line and any part of a principal building on a lot. The rear building setback extends along and is parallel to the full length of the rear lot line.
- (3) **Side Building Setback.** The minimum allowable distance between a side lot line and any part of a principal building on a lot. The side building setback extends along and is parallel to the side lot line between the front building setback and a rear building setback (if any).

Principal Sign. See “Sign, Principal.”

Principal Use. The specific, primary purpose for which land or a building is used, such as residential living, professional services, retail sales or manufacturing.

Project, Development. The entire proposed development project, regardless of the size of the area of land to be disturbed.

Project Entrance Sign. See “Sign, Project Entrance”.

Properly Designed. Designed in accordance with the design requirements and specifications 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 and amendments to the Manual as approved by the Commission up until the date of NOI submittal.

Protection Area or Stream Protection Area. With respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

Q

Quadruplex. A detached residential structure containing four dwelling units, designed for occupancy by not more than four families living independently of each other.

R

Rate (Small Cell Wireless Facility). A recurring charge.

Recharge Area. Any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.

Reconditioning Work (Small Cell Wireless Facility). The activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

Recreational Vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 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.

Recycled Water System. A water system that captures and reuses water previously used in wash or rinse cycles.

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

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

Regulated Activity (Discharge). Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

Repetitive Loss. Flood-related damages 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.

Replace, Replacement, or Replacing (Small Cell Wireless Facility). to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

Replacement Work. The activities associated with replacing an authority pole.

Replacement Planting. The planting of trees on a site that before development had more trees, and after development shall have fewer trees per acre.

Residential or Community Shelter. A facility licensed by the State Department of Human Resources for the purpose of receiving, on a temporary basis, persons who are subject to family violence as defined by Georgia Statutes 19-13-20 and 19-13-22.

Residential Use. See “Use, Residential.”

Right of Way (Small Cell Wireless). Generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the City and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

Right-of-Way. A portion of land over which a local or state government has designated a right of use.

Right-of-Way Line. The dividing line between a lot, tract or parcel of land and a continuous street, sidewalk, railroad, or other public right-of-way.

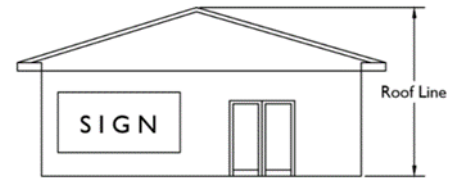
Riparian. Belonging or related to the bank of a river, stream, lake, pond, or impoundment.

Roadway. The paved portion of a street from back of curb to back of curb (or edge-to-edge of pavement for streets not having curbs) but excluding driveway aprons, bridges, and large single-and multi-cell culverts that in a hydrologic sense, can be considered to function as a bridge.

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 the roadway (consisting of one or more defined lanes, with or without shoulder areas), and carrying water to a release point on the other side.

Roof Line. The top of a flat roof or the ridge of a gable, hip or gambrel roof.

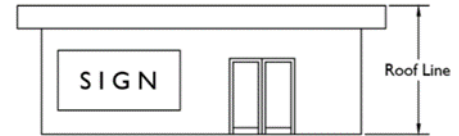


Roof Sign. See under “Building Sign.”

Runoff. Stormwater runoff.

S

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.



Seasonal Event. See “Holiday or Seasonal Event.”

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.

Semi-Trailer. A trailer with a set or sets of wheels at the rear, the forward portion of which is designed to be supported by the truck tractor or towing vehicle. For the purpose of this definition, flatbeds designed to be hauled by truck tractors are included as semi-trailers.

Setback. The distance between a street line or lot line and the building line of a principal building or structure.

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

- (1) **Front Building Setback.** The minimum allowable distance between a street line or lot line and the front building line of a principal building or structure, projected to the side lines of the lot and including driveways and parking areas, except where otherwise prohibited by this Code.
- (2) **Rear Building Setback.** The minimum allowable distance between a rear lot line and the building line. The rear building setback extends along and is parallel to the full length of the rear lot line.
- (3) **Side Building Setback.** The minimum allowable distance between a side lot line and the building line. The side building setback extends along and is parallel to the side lot line between the front building setback and a rear building setback (if any).

Setback, Stream. With respect to a stream, the area (established by the Stream Buffer Protection provisions of Article 8) extending beyond any buffer applicable to the stream.

Shopping Center. See “Planned Center.”

Shrub:

- (1) A self-supporting woody plant that may reach a height of less than 15 feet, such as but not limited to, azalea, boxwood, yew, hawthorn, hydrangea, holly, nandina, or camellia.
- (2) A woody plant of relatively low height, as distinguished from a tree by having stems and branches rather than a single trunk.

Site (of Development). The parcel of land being developed, or the portion thereof on which the development project is located.

Sign. Any structure, device, object, design or display that is used or intended to be used to attract the attention of or to convey information to the public, and that is placed in such a way, whether outdoors, indoors, or near a window, as to be in the view of the general public from the exterior of any building on the property.

Sign, A-frame, Sidewalk, or Sandwich. A temporary, movable sign not secured or attached to the ground or surface which it is located. This type of sign is typically “A” shaped or in some variation thereof (including a sign displayed on an easel) is usually double sided.

Sign, Aggregate Area. The combined area of all sign faces of a particular category on a single parcel. For example the aggregate sign area of all freestanding signs on a parcel is the sum total of the sign face areas of all freestanding signs on such parcel.



A-Frame Sign

Sign, Animated. A sign that has moving parts or includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs using electronic ink, signs set in motion by wind or by mechanical means such as the blowing of air or motorized parts, or made up of a series of sections that turn, including any type of screen using animated or scrolling displays such as an LED (light-emitting diode) screen or any other type of video display.

Sign, Banner. A sign of fabric, thin plastic, or similar lightweight material that is mounted to a pole or a building at one or more edges and is intended or displayed as commercial speech. Flags displaying noncommercial speech shall not be considered to be banners.

Sign, Billboard. Any monument sign erected on undeveloped property.

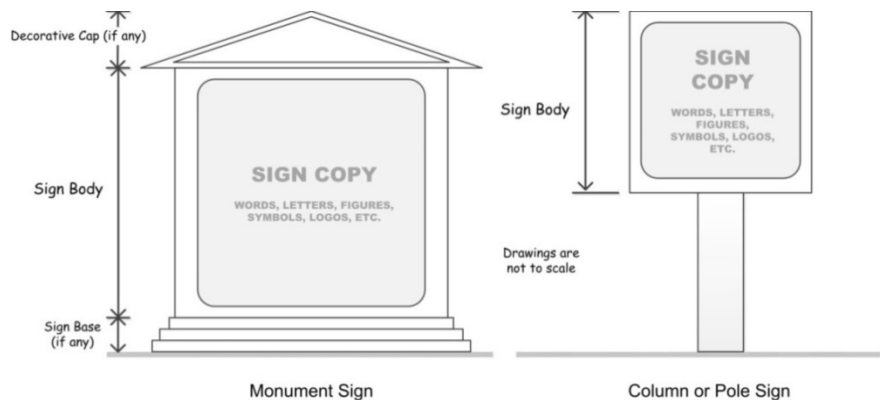
Sign Body. Portion of a sign structure that is intended or designed primarily to support or display the sign face, exclusive of the sign's base or decorative cap, if any.

Sign, Building Marker. See under “building sign.”

Sign, Canopy. See under “building sign.”

Sign, Changeable Copy. A type of animated sign that is capable of changing the position or format of texts or other displays on the sign face or change the visible display of words, numbers, symbols and graphics by the use of a matrix of electric lamps, movable discs, movable panels, light apertures or other methods, provided these changes are actuated by either a control mechanism or manually on the face of the sign. Changeable copy signs include the following types:

- (1) **Manually Activated:** A sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered by placing such letters or other message elements directly on the sign face by hand.
- (2) **Electronic:** A sign whose alphabetic, pictographic, or symbolic informational content can be changed and is displayed electrically or electronically. See also “LED sign.”



Sign, Channeled Letter. Signs that have their letters cut out of the sign face or raised above the sign face, described as:

- (1) **Internally Channeled Letters:** Letters or other symbols cut into a sign face and located above a recessed background surface, often designed for the background surface to be illuminated by an artificial light source.



- (2) **Reverse-Channeled Letters:** Letters or other symbols raised above a background surface designed to be illuminated from behind and within the letters or symbols by an artificial light source.

Sign Copy. The words, letters, figures, symbols, logos, fixtures, colors or other design elements that are used to convey the message, idea or intent for which a sign has been erected or placed.

Sign, Dilapidated/Deteriorated. A sign that is structurally unsound, has defective parts, or is in need of painting or other maintenance.

Sign, Double-Faced. 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 and the two sign faces are separated from each other at their nearest point by no more than 12 inches. Sign faces or sign modules on a single sign structure that are separated by more than 12 inches are treated as separate signs.

Sign Face. Portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign, Flag. See "flag."

Sign, Height. The vertical distance from the ground to the highest point of the sign structure, as measured from the adjacent finished grade at the base of the sign.

Sign, Illuminated. Any sign or portion thereof that is illuminated by artificial light, either from an interior or exterior source, including outline, reflective, or phosphorescent light, whether or not the source of light is directly affixed as part of the sign, and shall also include signs with reflectors that depend upon sunlight or automobile headlights for an image.

- (1) **Direct or Internal Illumination.** A sign illuminated by an internal source.
- (2) **Indirect or External Illumination.** A sign illuminated by an external light source directed primarily toward such sign.

Sign, Incidental. A small sign, emblem, or decal no larger than 1½ square feet in area. Such signs are normally located on doors, windows, and gas pumps, or in parking lots or loading areas, may be freestanding or building signs, and are generally not readily visible or legible from public rights-of-way.

Sign, Inflatable. A sign that is either expanded to its full dimensions through mechanical means of an air blower or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.

Sign, Kiosk. See "Kiosk."

Sign, Marquee. See under "Building Sign."

Sign, Mobile. See “Vehicular Sign.”

Sign Module. Each portion or unit of a sign face that is clearly separable from other such units by virtue of its individual or independent construction or framing.

Sign, Monument. See under “Freestanding Sign.”

Sign, Multi-Faced. A single freestanding sign structure consisting of two sign faces (see “Double-Faced Sign”) or three or more sign faces that are separated from each other at their nearest point by no more than 12 inches. Sign faces or sign modules on a single sign structure that are separated by more than 12 inches are treated as separate signs.

Sign, Neon. An illuminated sign containing a glass tube filled with neon or phosphors, which is bent to form letters, symbols or other shapes, or otherwise used to highlight, decorate or outline the sign.

Sign, Nonconforming. A sign legally existing at the time of its placement or erection that could not have been approved under the terms of this Development Code.

Sign, Permanent. Any sign that is securely affixed to the ground or to a building and not readily removable. Temporary signs are not considered to be permanent signs.

Sign, Pole. See under “Freestanding Sign”.

Sign, Portable. A sign whose principal supporting structure is intended, by design and construction, to be used by resting on the ground for support and may be easily moved or relocated for reuse. Portable signs shall include, but are not limited to, signs mounted on a trailer, bench, wheeled carrier, or other non-motorized mobile structure with or without wheels. See also “Sign, A-Frame, Sidewalk, or Sandwich.”

Sign, Pre-Permanent. A temporary sign used for signage by a new business until the permanent sign is installed.

Sign, Principal. The main, most prominent or largest freestanding or building sign on a property’s street frontage or principal building, other than a project entrance sign as defined in this Article. Such signs are of permanent construction and not placed as temporary signage.

Sign, Prohibited. Any sign, other than a non-conforming sign, not conforming to this Article.

Sign, Project Entrance. A permanent freestanding sign located at an entrance designed and permitted for vehicular access into a multi-family development, or into a development containing multiple lots, such as, but not limited to, a particular single-family residential subdivision, a townhouse condominium subdivision, or a commercial subdivision such as an office park or industrial park where buildings are located on separate lots.

Sign, Projecting. See under “Building Sign.”

Sign, Roof. See under “Building Sign.”

Sign, Temporary. Any sign, the use of which is short-term in nature, that is affixed to or placed on the ground or to a building but is readily removable and not intended for permanent installation.

Sign, Under Canopy. See under “Building Sign.”

Sign, Wall. See under “Building Sign.”

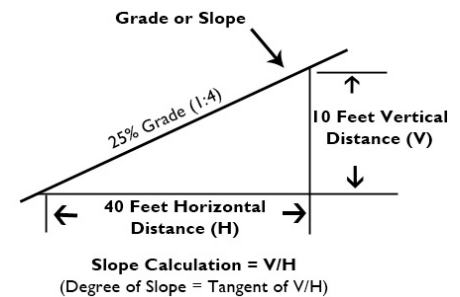
Significant Recharge Areas. Those areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18, 1989 edition.

Single-Family Detached Dwelling. A detached building containing one dwelling unit. See also “Manufactured home,” “Modular home,” and “Site-Built Single-Family Detached Dwelling.”

Site. The parcel of land being developed, or the portion thereof on which the land development project is located.

Site-Built Single-Family Detached Dwelling. A single-family detached dwelling constructed on the building site from basic materials delivered to the site, in contrast to assembly of pre-constructed and which is constructed in accordance with all requirements of the construction codes as adopted by the City of Duluth.

Slope. The degree of deviation of a surface from horizontal, measured in a numerical ratio, percent or degrees. Expressed as a ratio or percentage, the first number is the vertical distance (rise) and the second is the horizontal distance (run), as 2:1 or 200 percent (200%). Expressed in degrees, it is the angle of the slope from the horizontal plane with a 901 slope being vertical (maximum) and 451 being a 1:1 slope.



Small Cell Wireless Facility. A wireless facility that meets both of the following qualifications: (i) all antennas shall either be enclosed in a canister with a combined maximum height of 4 feet and a maximum total volume of 15 cubic feet, and (ii) all other wireless equipment shall, to the extent feasible, be contained within the pole or support structure, but if mounted externally, shall not exceed a maximum volume of 23 cubic feet, and must be attached to the pole. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Small Wireless Facility. Radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

Softwood Tree. Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Soil and Water Conservation District Approved Plan. An erosion, sedimentation, and pollution control plan approved in writing by the 15th Soil and Water Conservation District.

Special Event Facility. An establishment where special events including, but not limited to, weddings, wedding receptions, private parties and similar events are held and which provides meals for food services in connection with such events and which meets the definition in Chapter 3 of the Duluth Code of Ordinances.

Special Use. The term applied to those uses specifically identified and approved by the City Council under the requirements set forth herein.

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

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.

Start of Construction. The date a permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes 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 and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: accessory structures are not exempt from any article requirements). 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.

State. The State of Georgia.

State General Permit. The National Pollution Discharge Elimination System (NPDES) general permit or permits for storm water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.

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 that are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation, but which also includes:

- (1) Water from those sources described in this Article; and/or,
- (2) Any discharge permitted under 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 city separate storm sewer system.

Stormwater Better Site Design. Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater Management. The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, streambank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

Stormwater Management Design Manual. The most recent version of the Gwinnett County, Georgia, Stormwater Design Manual.

Stormwater Management Facility. Any infrastructure that controls or conveys stormwater runoff.

Stormwater Management Measure. Any stormwater management facility or nonstructural stormwater practice.

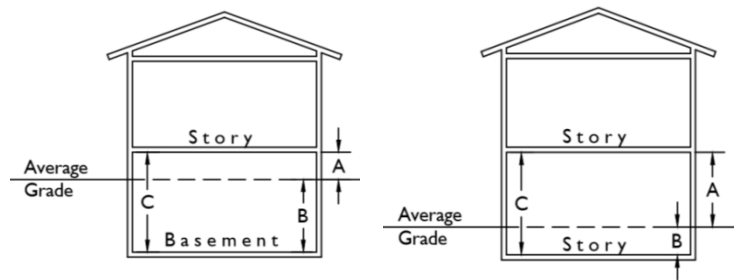
Stormwater Management Plan. A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this ordinance.

Stormwater Management System. The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

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

Stormwater Runoff. The flow of surface water resulting from precipitation.

Story, Building. That portion of a building included between the surface of any floor and the surface of the floor above it. If there is no floor above it, a room, suite, or story with more than one-half of its height below grade shall not be considered a story for the purposes of height regulations. One-story measures 12 feet in height. The first floor of a two or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy but has at least $\frac{1}{2}$ of its height on one side below grade. Those stories above the first floor shall be numbered consecutively.



Stream. Any stream, beginning at:

- (1) The location where the normal stream flow has wrested the vegetation. The normal stream flow is any flow that consists solely of base flow or consists of both base flow and direct runoff during any period of the year. Base flow results from the groundwater that enters the stream channel through the soil. This includes spring flows into streams. Direct runoff is the water entering stream channels promptly after rainfall or snow melts; or,
- (2) A point in the stream channel with a drainage area of 20 acres or more; or,
- (3) Where evidence indicates the presence of a stream in a drainage area of other than 20 acres, the Planning and Development Department may require field studies to verify the existence of a stream.

Stream Bank. The confining cut of a stream channel.

Stream Buffer. See under "Buffer".

Stream Channel. The portion of a watercourse that contains the base flow of the stream.

Stream Protection Area. See “Protection Area.”

Street. A public thoroughfare, that affords the principal means of access to abutting property. Various types of streets may be defined as follows:

- (1) **Arterial.** A Principal Arterial, Major Arterial, or Minor Arterial street as defined and designated in the Comprehensive Plan of Gwinnett County.
- (2) **Major Thoroughfare.** Any public street, existing or proposed, that is shown in the Comprehensive plan as an arterial or collector.
- (3) **Minor Collector.** A through street having the primary function of connecting subdivisions or other areas to Major Collector streets or other major thoroughfares, or functioning as a central route within a subdivision channeling traffic from the local streets to an abutting major thoroughfare or another Minor Collector street. For the purposes of these Regulations, a central but non-through route within a subdivision or other project will be considered a Minor Collector, if the Average Daily Traffic generated by the development on the route will exceed 2,000 trips.
- (4) **Marginal Access Street.** A local street that is parallel to and adjacent to a major thoroughfare and that provides access to adjacent properties and protection from through traffic.
- (5) **Local Nonresidential Street.** A surface street intended primarily to provide local access to adjacent existing or planned commercial or industrial development and not for through traffic.
- (6) **Local Residential Street.** A surface street intended primarily to provide local access to adjacent residential development and not for through traffic.
- (7) **Cul-De-Sac.** A street having one end open to traffic and being permanently terminated within the development by a vehicular turnaround. For the purpose of designation, a cul-de-sac street shall be interpreted to begin at the intersection of two or more streets nearest to the vehicular turnaround.
- (8) **Alley or Service Drive.** A minor, permanent, public service-way that is used primarily for vehicular service access to the back or the side for properties otherwise abutting on a street.
- (9) **Driveway.** A vehicular access way in private ownership, other than a Private Street, that provides access primarily to only one property.

Street Line. The dividing line between a lot, tract or parcel of land and a contiguous street.

Street, Private. Any right-of-way or area set aside to provide vehicular access within a development that is not dedicated or intended to be dedicated to the city, and that is not maintained by the city; An access way similar to and having the same function as a public street, providing access to more than one property, but held in private ownership (as distinct from a "driveway"). Private streets shall be classified as local streets for purposes of determining building setbacks.

Street, Public. A right-of-way dedicated to and accepted by the City of Duluth for vehicular traffic or over which the City of Duluth may hold a prescriptive easement for public access, and including designated and numbered U. S. and State Highways. For the purposes of this Development Code, the term "public street" shall be limited to those that afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways that abut a property but from which direct access may not be allowed under any circumstances.

Street, Right-of-Way. The dividing line between a lot, tract, or parcel of land and a street right-of-way.

Structural Buffer. See under “Buffer”.

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*.

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 of such runoff.

Structure. Anything constructed or erected on the ground or attached to something on the ground, including, but not limited to: buildings, signs, gasoline pumps, parking lots, patios, pools, decks, manufactured homes, gas or liquid storage tanks, and canopies.

Subdivider. Any person, individual, firm partnership, association, corporation, estate, trust, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as herein defined, including an agent of the subdivider.

Subdivision:

- (1) (verb) Any division or redivision of a lot, tract or parcel of land, regardless of its existing or future use, into two or more lots, tracts, parcels or building sites. The term, "subdivision" shall mean the act or process of dividing property.
- (2) (noun) Where appropriate to the context, the term "subdivision" also may be used in reference to the aggregate of all lots or building sites held in common ownership at the time of division.

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.

Substantial Improvement. Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure prior to the improvement. The market value of the building means:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement; or,
- (2) In the case of damage, the value of the structure prior to the damage occurring.
- (3) This term includes structures, which have incurred repetitive loss or substantial damage regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the code enforcement official, and not solely triggered by an improvement or repair project.

Substantially Improved. Existing manufactured home park or subdivision is where 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.

Subtenant. A natural person, business, or other entity that subleases or is otherwise allowed to occupy a portion of land or a building, the majority of which is also occupied by a tenant. For the purposes of this Development Code, a subtenant is not treated as a “tenant” as defined herein.

Support Structure (Small Cell Wireless Facility). A building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

T

Telecommunications:

- (1) **Accessory Equipment.** Any equipment serving or being used in conjunction with a wireless facility or wireless support structure and includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, and storage sheds, shelters, or similar structures.
- (2) **Antenna.** Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.
- (3) **Base Station.** A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this Glossary or any equipment associated with a tower.
 - (a) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (b) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).
 - (c) The term includes any structure other than a tower that, at the time the relevant application is filed with the City of Duluth under the Wireless Telecommunications Section of Article 3 of this UDC, supports or houses equipment described under a) and b) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
 - (d) The term does not include any structure that, at the time the relevant application is filed with the City of Duluth under the Wireless Telecommunications Section of Article 3 of this UDC, does not support or house equipment described under a) and b) of this definition.
- (1) **Collocate or Collocation.** The placement or installation of new wireless facilities on previously approved and constructed wireless support structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of accessory equipment within an existing equipment compound.
- (2) **Eligible Support Structure.** Any “base station” as defined in this Glossary; or, any tower built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services

and fixed wireless services such as microwave backhaul, and the associated site. Eligible support structures are further defined as existing at the time the relevant application is filed with the City of Duluth under the Wireless Telecommunications Section in Article 3 of this UDC.

- (3) **Equipment Compound.** An area surrounding or adjacent to the base of a wireless support structure within which accessory equipment is located.
- (4) **Modification or Modify.** The improvement, upgrade, expansion, or replacement of existing wireless facilities on an existing wireless support structure or within an existing equipment compound, provided such improvement, upgrade, expansion, or replacement does *not* increase the height of the wireless support structure or increase the dimensions of the equipment compound.
- (5) **Registry.** Any official list, record, or register maintained by local governing authority of wireless facilities, equipment compounds, or wireless support structures.
- (6) **Substantially Change.** A modification that substantially changes the physical dimensions of an “eligible support structure” as defined in this Glossary if it meets any of the following criteria:
 - (a) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater. *(Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.)*
 - (b) for towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet;
 - (c) for any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;
 - (d) it entails any excavation or deployment outside the current site;
 - (e) it would defeat the concealment elements of the eligible support structure; or
 - (f) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in a) through d) of this definition.
- (1) **Utility.** Any person, corporation, municipality, county, or other entity, or department thereof or entity related or subordinate thereto, providing retail or wholesale electric, data, cable, or telecommunications services.

- (2) **Wireless Facility.** The set of equipment and network components, exclusive of the underlying wireless support structure, including antennas, transmitters, receivers, base stations, power supplies, cabling, and accessory equipment, used to provide wireless data and wireless telecommunication services.
- (3) **Wireless Support Structure.** A freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing or alternative structure designed to support or capable of supporting wireless facilities. Such term shall *not* include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

Temporary Event. An activity having a specific duration or the end of which is related to a specific action, usually lasting for only a few days or months at a time.

Tenant. A natural person, business, or other entity that occupies land or buildings by ownership, under a lease, through payment of rent, or at will; the primary occupant, inhabitant, or dweller of a place. See also “sub-tenant”.

Tenant Frontage. The horizontal distance in feet between the walls that delimit an exterior façade of a tenant space. A “tenant space” may be a standalone building with a single occupant, or a portion of a planned center that is separated from all other tenant spaces for occupancy by a single tenant.

Timber Harvesting. The felling, loading, and transporting of timber products (pulpwood etc.). The term “timber harvesting” may include both clearcutting and selective cutting of timber.

Trail, Multi-use. A hard surface (concrete, asphalt, boardwalk, etc.) transportation structure specifically constructed for alternative transportation such as walking, biking, roller blading, etc., and not intended to transport motorized vehicles such as cars, trucks, or motorcycles.

Tree. Any living, self-supporting woody or fibrous plant that normally obtains a Diameter Breast Height of at least 3 inches, and typically has one main stem or trunk and many branches.

Tree Removal or Removal of Trees. Any act that causes a tree to die within two years after commission of the act, including, but not limited to, damage inflicted upon the root system or trunk as the result of:

- (1) The improper use of machinery on the trees;
- (2) The storage of materials in or around the trees;
- (3) Soil compaction;
- (4) Altering the natural grade to expose the roots or to cover the tree’s root system with more than 4 inches of soil;
- (5) Causing the infection or infestation of the tree by pests, fungus, or harmful bacteria;
- (6) Pruning judged to be excessive by the Director or not in accordance with the standard set forth by the International Society of Arboriculture (ISA);
- (7) Paving with concrete, asphalt, or other impervious surface within such proximity as to be harmful to the tree or its root system; or,
- (8) Application of herbicides or defoliant to any tree without first obtaining a permit.

Tree Density Standard (TDS). The minimum number of Tree Density Units per acre that must be achieved on a property after development.

Tree Density Unit (TDU). A credit assigned to a tree, based on the diameter of the tree, in accordance with tables contained in this Ordinance.

Tree Diameter. The widest cross-sectional dimension of a tree trunk measured at diameter breast height (DBH) or at a point below DBH for new trees or multi-trunked species, but in no case less than 6 inches from the ground.

Tree Preservation/Replacement Plan (TP/RP). A plan that identifies Tree Protection Areas on a property where existing trees are to be preserved and where proposed replacement trees are to be planted to meet minimum requirements, as well as methods of tree protection to be undertaken on the site and other pertinent information.

Tree Protection Area (TPA). Any portion of a site wherein are located existing trees that are proposed to be preserved in order to comply with the requirements of this Ordinance. The Tree Protection Area shall include no less than the total area beneath the tree canopy as defined by the drip line of the tree or collective group of trees.

Tree Save Area. An area designated for the purpose of meeting tree density requirements, saving natural trees, and/or preserving natural buffers.

Tree-Thinning. Selective cutting or thinning of trees only for the clear purpose of good forestry management in order to protect said forest from disease or infestation and in no way shall be constructed as clear-cutting.

Triplex. A multi-family dwelling containing three dwelling units, designed for occupancy by not more than three families living independently of each other.

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.gaepd.org. Streams designated as primary trout waters are defined as water supporting a selfsustaining 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.

Two-Family Dwelling (Duplex). A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof.

U

Understory. Those trees that grow beneath the overstory, and will generally reach a mature height of less than 40 feet.

Use:

- (1) Any purpose for which, a building, structure, or a 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.

Use, Nonresidential. A principal use that is a business engaged in the sale of goods or the provision of personal, professional, business, entertainment, or other services; an institutional or nonprofit organization; a business engaged in the fabrication, manufacture, or production of durable or non-durable goods; an activity for the administration or support of a business or organization; or a place of lodging for the travelling public, such as a hotel, motel, or bed and breakfast.

Use, Residential. A principal use that is intended for occupancy by an owner or lessee as their permanent abode.

Utility. A public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, storm water systems, and railroads or other utilities identified by the Planning and Development Department.

Utility Pole. A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control, signage, or a similar function regardless of ownership, including city-owned poles. Such term shall not include structures supporting only Wireless Facilities.

V

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.

Vehicular Sign. Any sign placed, mounted, painted on, or affixed to a motor vehicle or to a freight, flat-bed or storage trailer or other conveyance, whether motorized or drawn.

W

Wall Sign. See under “Building Sign.”

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.

Watershed Buffer. See under “Buffer”.

Water Supply Watershed. The area of land upstream of a governmentally owned public drinking water intake.

Watershed. The land area that drains into a particular stream.

Way. A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Way, Pedestrian. A right-of-way within a block dedicated to public use, intended primarily for pedestrians and from which motor vehicles are excluded.

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. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Window Sign. See under “Building Sign.”

Wireless Facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii)

radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small cell wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated.

Wireless Infrastructure Provider. Any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

Wireless Provider. A wireless infrastructure provider or a wireless services provider.

Wireless Services. Any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

Wireless Services Provider. A person that provides wireless services.

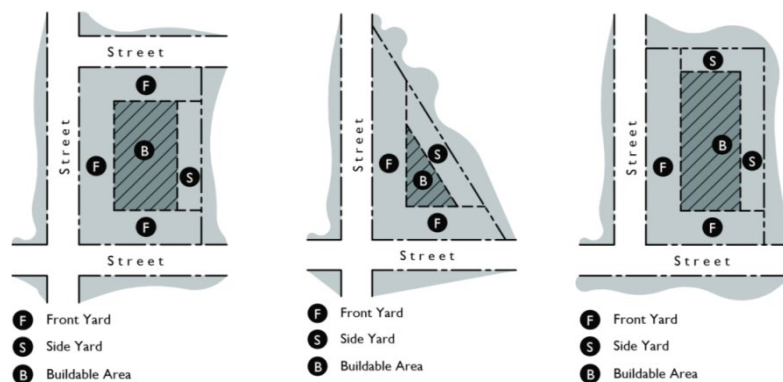
Wireline Backhaul Facility. An aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

X

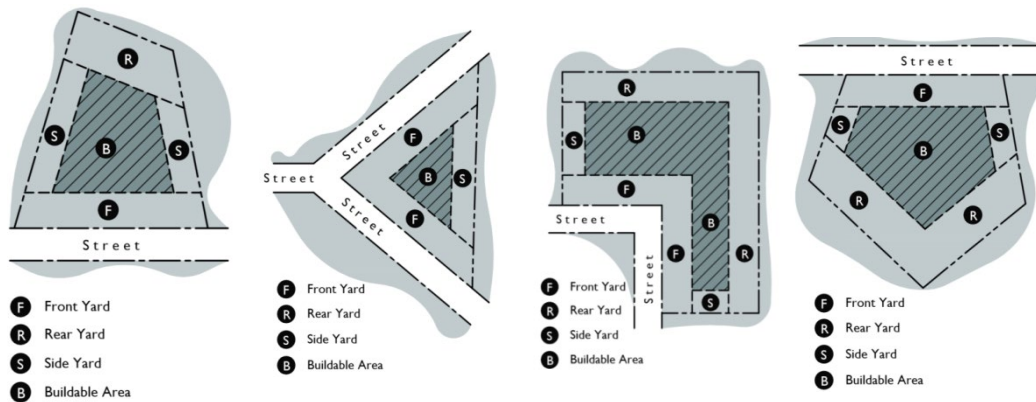
Y

Yard (with principal building). An area that lies between the principal building on a lot and the nearest lot line.

- (1) **Front Yard.** A yard extending across the full width of the lot, measured between the front lot line and the front line of the main building. Corner lots shall be considered to have two front yards or one exterior side and one front yard.
- (2) **Rear Yard.** A yard extending across the full width of the lot, measured between the rear line of the lot and the rear line of the main building.
- (3) **Exterior Side Yard.** A yard between the building and attached structures, and the adjacent street right-of-way line along the lot extending from front yard to rear yard.
- (4) **Interior Side Yard.** A yard between the building and attached structures, and adjacent sideline of the lot adjoining another lot, and extending from the front yard to the rear yard.



Examples of Required Yards in
Corner Lots



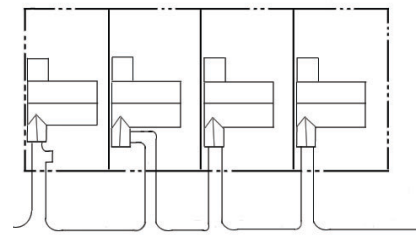
Examples of Required Yards in Irregular Shaped Lots

Yard (no principal building). An area beginning from the nearest lot line or street right-of-way line, as described below, to the interior of a lot.

- (1) **Front Yard.** A yard extending across the full width of the lot, measured at a point beginning from the adjacent street right-of-way line. Corner lots shall be considered to have two front yards or one side and one front yard.
- (2) **Rear Yard.** A yard extending across the full width of the lot, measured at a point beginning from the rear line of the lot. The rear line shall be opposite the street right-of-way line used to designate the front yard.
- (3) **Side Yard.** A yard that is not a front yard or rear yard.
- (4) **Interior Side Yard.** A yard between the building and attached structures, and adjacent sideline of the lot adjoining another lot, and extending from the front yard to the rear yard.

Z

Zero Lot Line. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line, such as patio homes or fee simple town-house condominiums.

Example of Zero Lot Line:
Patio Homes

Zoning Buffer. See under "Buffer".

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