Appendix A ZONING [1]

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Editor's note—. The City of the Johns Creek Zoning Ordinance was adopted by the Mayor and City Council January 2, 2007, effective January 5, 2007 and further amended September 24, 2007 per Ordinance O2007-09-26, June 2, 2008 per Ordinance O2008-05-10, February 9, 2009 per Ordinance O2008-12-28, April 27, 2009 per Ordinances O2009-04-09, O2009-04-10 and O2009-04-11, June 29, 2009 per Ordinance O2009-6-17, and August 24, 2009 per Ordinance O2009-08-29. Ordinance. No. 2010-05-08, adopted May 24, 2010, deleted the former City of Johns Creek Zoning Ordinance and adopted a new City of Johns Creek Zoning Ordinance as set out herein.

List of Amendments since May 24, 2010:

9/27/2010: A-10-002 (O2010-09-18): Article XII-E. Community Standards
8/26/2011: A-11-001 (O2011-08-20): Article XXXIII. Signs
7/22/2013: A-13-001 (O2013-04-10): Article III. Definitions; Article XIX. Administrative Permits and Use Permits
6/16/2014: A-14-001 (O2014-06-23): Article IV. General Provisions; Article XVIII. Off Street Parking and Loading; Article XXXIII. Signs
1/26/2015: A-14-002 (O2015-01-03): Article XXXVIII. Rezoning and Other Amendment Procedures
10/12/2015: A-15-001 (O2015-09-30): Article III. Definitions; Article VII. Two-Family, Townhouse, Apartment Dwelling Districts; Article VIII. Office Institutional, Mixed Use District; Article IX. Community Business District; Article XIX. Administrative Permits and Use Permits
1/25/2016: A-15-003 (O2016-01-03): Article III. Definitions; Article IV. General Provisions; Article VIII. Office Institutional, Mixed Use Districts; Article XI. Community/Neighborhood/Mobile Home Districts; Article XII.E. Community Standards; Article XVIII. Off Street Parking and Loading; Article XIX. Administrative Permits and Use Permits; Article XXII. Appeals; Article XXVIII. Rezoning and Other Amendment Procedures; Article XXXIII. Signs

Editor's note— This appendix is a reprinting of the zoning ordinance as it appears on file in the city clerk's office, except that the editor has inserted in brackets section captions or explanatory matter where they did not exist; further amendatory ordinances have been incorporated, and are cited following amended provisions. (Back)

ARTICLE I. ADOPTION

The Zoning Ordinance of the City of Johns Creek, Georgia, [Ordinance No. 2010-05-08, adopted May 24, 2010, is hereby adopted to read as follows.]

ARTICLE II. PREAMBLE AND ENACTMENT

Sec. 2.1. Ordinance Preamble and Enactment.

Whereas, the Constitution of the State of Georgia provides in Article IX, Section II, Paragraph IV thereof, that the governing authority of the city may adopt plans and exercise the power of zoning; and

Whereas, the municipal corporation of the City of Johns Creek, Georgia, is specifically authorized by its City Charter to exercise a wide range of powers, including but not limited to preventing the pollution of natural streams, regulating the erection and construction of building and other structures, developing zoning regulations, providing for public improvements, regulating and controlling signs, billboards, trees, shrubs, fences, buildings, and all other structures or obstructions adjacent to the right-of-way of streets and roads or within view thereof, regulating various special uses; and to exercise all other powers necessary or desirable to promote or protect the health, safety, peace, security, good order, comfort, convenience and general welfare of the city and its inhabitants; and

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

Whereas, the City finds that the regulations contained in this ordinance are necessary for the purposes of implementing the comprehensive plan adopted pursuant to the requirements of the Georgia Planning Act of 1989; and

Whereas, this ordinance has been prepared and considered in accordance with the zoning procedures law, O.C.G.A. 36-66-1; and

Whereas, this ordinance is adopted as part of a plan designed for the purposes, among others, of lessening congestion on the roads and streets; securing safety from fire, flood, and other dangers; providing adequate light and air; promoting health and general welfare; encouraging such distribution of population and such classification of land uses and utilization as will facilitate economic and adequate provisions for transportation, communication, road, water supply, drainage, sanitation, education, recreation, and other public requirements. These regulations are made with reasonable considerations, among others, to the character of the districts and the suitability of particular uses in such districts, to the general view of promoting desirable living conditions, protecting property against blight and depreciation, and encouraging the most appropriate use of land throughout the City of Johns Creek.

Now, therefore, the governing body of the City of Johns Creek, Georgia, does hereby ordain, enact, and thereby incorporate into the City Code of Johns Creek, Georgia, this ordinance and its articles, chapters, and sections.

ARTICLE III. DEFINITIONS

Sec. 3.1. Scope.

Sec. 3.2. Use and interpretation.

Sec. 3.3. Definitions.

Sec. 3.1. Scope.

Words not defined herein shall be construed to have the meaning given by The Latest Illustrated Book of Development Definitions and, if not defined therein, by Merriam-Webster's Collegiate Dictionary, tenth edition or later edition.

Sec. 3.2. Use and interpretation.

The following shall apply to the use of all words in this Ordinance:

a. Words used in the present tense shall include the future tense.

b. Words used in the singular shall include the plural and vice versa.

c. The word shall is mandatory.

d. The word may is permissive.

e. The nouns zone, zoning district and district have the same meaning and refer to the Zoning Districts established by this Ordinance.

f. The phrase used for shall include the phrases arranged for, designed for, intended for, maintained for and occupied for.

Sec. 3.3. Definitions.

3.3.1. *A.*

Accessory Equipment. Any equipment serving or being used in conjunction with a wireless telecommunications facility, including, without limitation, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings or enclosures, cabinets, storage sheds, shelters, or similar structures, but excluding any antennas, antenna arrays, towers or other antenna support structures.

Accessory Site Feature. Mechanical, electrical and ancillary equipment, cooling towers, mechanical penthouses, heating and air conditioning units and/or pads, exterior ladders, storage tanks, processing equipment, service yards, storage yards, exterior work areas, loading docks, maintenance areas, dumpsters, recycling bins, and any other equipment, structure or storage area located on a roof, ground or building.

Accessory Structure. See structure, accessory.

Adjoin. To have a common border with. Adjoin may also mean coterminous, contiguous, abutting and adjacent.

Administrative Minor Variance. A variance to the minimum district yard requirements of not more than 1 foot, granted administratively by the Director of the Department of Community Development.

Administrative Variance. A request for relief from: 1) the standards contained in Article 34, Development Regulations, 2) a request to reduce the 10 foot improvement setback adjacent to buffers or 3) a request for 10% reduction of parking spaces as required in Article 18.2.3.

Alternative Antenna Support Structure. Clock towers, campaniles, free standing steeples, and other alternative designed freestanding support structures that conceal antennas as an architectural feature. Monopines and other manmade trees designed as support structures are not 'alternative antenna support structures.'

Amateur Radio Antenna. Radio communication facility that is an accessory structure to a single-family residential dwelling operated for non-commercial purposes by a Federal Communication Commission licensed amateur radio operator. The term antenna shall include both the electronic system and any structures it is affixed to for primary support.

Antenna. An apparatus, device or system of electrical conductors that transmits and/or receives electromagnetic waves, radio or other wireless signals used in the provision of all types of wireless communication services.

Antenna Array. A single set or group of antennas and associated mounting hardware, transmission lines or other appurtenances which share a common attachment device such as a mounting frame or mounting support.

Antenna, Minor. Satellite receiving dishes of one meter or less in diameter and television broadcast receiving antennas.

Antenna Support Structure. A structure, such as a tower (either monopole, guy or lattice tower), alternative antenna support structure, or attached antenna support structure, designed to support or capable of supporting antenna(s), antenna array(s), and certain accessory equipment, such as cables.

Apartment. See Dwelling, Multi-Family.

Appeal. A request for relief from a decision made by the Director of the Department of Community Development, other department directors, the Board of Zoning Appeals, and/or the Mayor and City Council.

Applicable Wall Area. The wall on which a wall sign is attached including all walls and windows that have the same street or pedestrian orientation. All open air spaces shall be excluded from the applicable wall area.

Assembly Hall (also Event Space). A large room or structure where people can congregate for public meetings, special events, and/or meetings of an organization such as a school, church, or deliberative assembly.

Attached Antenna Support Structure. Any pole, mount or device which attaches an antenna(s) or antenna array(s) to the roof or side of an existing building or to an electrical transmission tower, light structure, utility pole, or other similar existing structure.

Attached Wireless Telecommunications Facility. An antenna or antenna array that is secured to the roof or side of an existing building (respectively, a "roof-mounted wireless telecommunications facility" and a "building-mounted wireless telecommunications facility") or attached to an existing electrical transmission tower, light structure or utility pole (except a tower or alternative antenna support structure) with an attached antenna support structure, together with accessory equipment, located either on or within the subject building or structure or on the ground proximate to the subject building or structure.

Attic. An unheated storage area located immediately below the roof.

Authorized Agent. A person or persons with written authorization acting on behalf of a property owner or applicant.

Automotive Garage. A use primarily for the repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or major components of automobiles and motorized vehicles. The repair of heavy trucks, equipment and automobile body work shall not be included in this use. The outside storage of unlicensed and unregistered vehicle is prohibited as part of this use.
(See Auto Specialty Shop and Service Station)

Automotive Specialty Shop. A use which provides one or more specialized repair sales and/or maintenance functions such as the sale, replacement, installation or repair of tires, mufflers, batteries, brakes and master cylinders, shock absorbers, instruments (such as speedometers and tachometers), radios and sound systems or upholstery for passenger cars, vans, and light trucks only.

No use authorized herein shall permit any private or commercial activity which involves auto/truck leasing, painting, repair or alteration of the auto body, nor shall any repair, replacement, modification, adjustment, or servicing of the power plant or drive-train or cooling system be permitted, except that minor tune-up involving the changing of spark plugs, points or condenser, including engine block oil changes, are permitted.

3.3.2. *B.*

Babysitting. A service in which shelter, care, and supervision are provided for 4 or fewer children below the age of 12 on an irregular basis.

Base Station. A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Basement. A level below a floor of a building with a minimum of one-half (½) of the total wall area below grade. A basement is not a story. The term basement is synonymous with cellar.

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also any light with one or more beams that rotate or move.

Bed and Breakfast Inn. A residence in which the frequency and volume of visitors are incidental to the primary use as a private residence and where guest rooms are made available for visitors for fewer than 30 consecutive days. Breakfast is the only meal served and is included in the charge for the room. Use allowed in non-residential districts and permitted in AG-1 and TR with a Use Permit.

Berm. A planted earthen mound.

Billboard. A sign which advertises services, merchandise, entertainment or information which is not available at the property on which the sign is located.

Board. The City of Johns Creek Mayor and City Council.

Boarding House. A residential use other than a hotel or motel in which lodging may be provided to non-household members and which includes the provision of meals.

Brewpub. An accessory use to a permitted restaurant where distilled spirits, malt beverages or wines are licensed to sell and where beer or malt beverages are manufactured or brewed for consumption on the premise and solely in draft form.

Buffer Stream. The area of land immediately adjacent to the banks of state waters in its natural state of vegetation that facilitates the protection of water quality and aquatic habitat.

Buffer, Zoning. A natural undisturbed portion of a lot, except for approved access and utility crossings, which is set aside to achieve a visual barrier between the use on the lot and adjacent lots and/or uses. A buffer is achieved with natural vegetation and must be replanted subject to the approval of the Director of the Department of Community Development or his/her designated agent(s) when sparsely vegetated. Clearing of undergrowth from a buffer is prohibited except when accomplished under the supervision of the Director of the Department of Community Development or his/her designated agent(s).

Buildable Area. The portion of a parcel of land where a building may be located and which shall contain enough square footage to meet the minimum required by the zoning district. That portion which is not located in the minimum setbacks, utility corridors, driveways, slopes to build streets, tree save areas, landscape strips, specimen tree areas, state water buffers, tributary buffers, zoning buffers, wetlands, storm water and sanitary sewer easements.

Building. Any structure with a roof, designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

Building Inspector. The person charged with ensuring compliance with the Building Code and other applicable regulations and ordinances of the City of Johns Creek, and his or her designee.

Building Line. A building line is one which is no closer to a property line than the minimum yard (setback) requirements.

Building Official. The official and his or her designee who directs municipal building inspection program and conducts complex inspections to determine whether relevant codes and regulations are met.

Business. A use involving retailing, wholesaling, warehousing, outside storage, manufacturing or the delivery of services regardless of whether payment is involved. The term Business does not include uses which are customarily incidental (accessory) to another use.

3.3.3. *C.*

Café. See Restaurant, Café.

Canopy. A roof-like cover, excluding carports, that either projects from the wall of a building or is freestanding.

Car Wash, Principal. A primary or main use which provides space for cleaning vehicles.

Car Wash, Accessory. A customarily incidental use of an attached or detached bay for cleaning vehicles.

Car Wash, Automated. Any building or premises or portions thereof dedicated to use for washing automobiles with mechanical equipment, which is often completely unattended. Automated car washes may require permanent structures. Services include cleaning, washing, polishing, and waxing.

Car Wash, Non-automated. Any building or premises or portions thereof dedicated to use for washing automobiles by hand operated equipment. Non-automated car washes may or may not require permanent structures, but typically always require some kind of shade structures or storage sheds. Services include cleaning, washing, polishing, and waxing.

Carrier on Wheels or Cell on Wheels (COW). A portable self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless communication services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Cellar. See basement.

Cemetery, Human. The use of property as a burial place for human remains. Such a property may contain a mausoleum.

Cemetery, Pet. The use of property as a burial place for the remains of pets. Such a property may contain a mausoleum.

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

Church, Temple or Place of Worship. A facility in which persons regularly assemble for religious ceremonies. This shall include, on the same lot, accessory structures and uses such as minister's and caretaker's residences, and others uses identified under the provisions for Administrative and Use Permits.

Clear Cutting. The removal of all vegetation from a property, whether by cutting or other means, excluding stream buffer requirements.

Clinic. A use where medical examination and treatment is administered to persons on an outpatient basis. No patient shall be lodged on an overnight basis.

Club. A non-profit social, educational or recreational use normally involving community centers, public swimming pools and/or courts, civic clubhouses, lodge halls, fraternal organizations, country clubs and similar facilities.

Club, Neighborhood. Any club operated for recreation and social purposes solely by the residents of a specific neighborhood or community.

Collocation. The placement or installation of new wireless transmission equipment on existing towers or antenna support structures on which there is an existing antenna (an "existing tower"), including monopoles and towers (self-supporting, guyed, and lattice), in a manner that negates the need to construct a new freestanding antenna support structure. Such term includes the placement of accessory equipment within an existing equipment compound.

Commercial Amusement /Indoor. A use where recreational activity such as movie theaters, arcades, billiards, game rooms, sporting activities and other recreational amusements are conducted within a building.

Commercial Amusement/Outdoor. A use where recreational activity such as skating rinks, batting cages, miniature golf, drive-in theaters and other recreational activities or amusements that are conducted outside a building.

Communication Services. A use that provides for the retail sale of telecommunication or wireless communication services to consumers, repair services for telecommunication or wireless communication goods, customer service centers, and telecommuting services. This use includes telecommunication or wireless communication retail stores, wireless communication repair service centers or stores, wireless

communication customer service centers, and cable customer service centers, but excludes wireless telecommunications facilities and television and radio stations. The term "communication services" is separate and distinct from the term "wireless communication services."

Composting. A processing operation for the treatment of vegetative matter into humus-like material that can be recycled as a soil fertilizer amendment such as trees, leaves and plant material. Organic animal waste, food, municipal sludge, solid waste, and other non-farm or vegetative type wastes are not included.

Condominium. A form of ownership as defined by State law in which common elements are jointly owned. A condominium is not a building type.

Conservation Subdivision. A single family detached residential subdivision in which a minimum of 40 percent of the total land area is set aside as permanently protected open space as define in Article XX of the Zoning Ordinance. Conservation Subdivisions require Use Permit approval in accordance with Article XXVIII.

Construction material. Building materials and rubble resulting from construction, remodeling, repair, and/or demolition operations on pavements, houses, commercial buildings and other structures. Such materials include, but are not limited to, asbestos containing waste, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.

Convalescent Center/Nursing Home/Hospice. A state licensed use in which domiciliary care is provided to convalescing, chronically or terminally ill persons who are provided with food, shelter and care and not meeting the test of family. This use shall not include hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Convenience Store. A use offering a limited variety of groceries household goods, and personal care items, always in association with the dispensing of motor fuels as an accessory use, but in all cases excluding vehicle service, maintenance and repair.

Convenient location and time. Suitable time and easily accessible place for applicants to meet with interested parties to discuss rezoning and/or use permit petitions.

Country Inn. A facility, with the owner or innkeepers residing on the premises, where guest rooms are made available for visitors for fewer than 30 consecutive days. A Country Inn is distinguished from a Bed and Breakfast category in that it serves both breakfast and lunch or dinner.

Courtyard. An open air area, other than a yard, that is bounded by the walls of a building. Courtyards are used primarily for supplying pedestrian access, light, and air to the abutting building(s). Site furniture, lighting and landscaping are appropriate for courtyards. Vehicular access allowed for unloading and loading only. No vehicular parking or vehicular storage is allowed.

Coverage, Service. The geographic area reached by an individual wireless telecommunications facility.

Crematorium. A facility for the reduction of remains to ashes by incineration.

Cul-de-sac. A street having only one connection to another street, and is terminated by a vehicular turn-around.

Curb cut. A connection between a roadway and a property for vehicular access. Curb cut applies to access regardless of the existence of curbing.

Cutoff. A luminaire light distribution where the emission does not exceed 2.5 percent of the lamp lumens at an angle of 90 degrees above nadir and does not exceed 10 percent at a vertical angle of 80 degrees above nadir.

Cutoff Fixture. A luminaire light distribution where the candela per 1000 lamp lumens does not numerically exceed 25 (2.5 percent) at or above a vertical angle of 90 degrees above nadir, and 100 (10

percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

3.3.4. *D.*

Day Care Facility. A use in which shelter, care, and supervision for seven (7) or more persons on a regular basis away from their residence for less than 24 hours a day. A Day Care Facility may provide basic educational instruction. The term shall include nursery school, kindergarten, early learning center, play school, pre-school, and Group Day Care Home.

Day Care Home, Family. See Family Day Care Home.

Day-Night Average Sound Level (DNL). The day-night average sound level (DNL) is the 24-hour average sound level, in decibels, obtained from the accumulation of all events with the addition of 10 decibels to sound levels in the night from 10 P.M. to 7 A.M. The weighing of nighttime events accounts for the usual increased interfering effects of noise during the night, when ambient levels are lower and people are trying to sleep. DNL is a weighted average measured in decibels (db).

Deck. A structure abutting a dwelling with no roof or walls except for visual partitions and railings not to exceed 42" above finished floor which is constructed on piers or a foundation above-grade for use as an outdoor living area.

Denial Without Prejudice. A motion by the Planning Commission or the Mayor and City Council that denies the requested petition and is deemed final action. Although considered a final decision, a denial without prejudice is not determined to be a final decision based on the merits of the case and would not be considered zoning precedent on the property. Any new application on the property would be considered on its own merits and may not be heard by the Mayor and City Council less than twelve months from the final decision.

Department. Department of Community Development.

Development, Duplex. A development of duplexes.

Development, Multifamily. A development of multifamily dwelling units on a single lot of record.

Development of Regional Impact (DRI) Study. A review by the Atlanta Regional Commission and the Georgia Regional Transportation Authority of large scale projects that are of sufficient size that they are likely to create impacts beyond the jurisdiction in which each project will be located.

Development Permit Standards. Requirements established for each administrative and use permit such as setbacks, access, landscape and buffer areas, hours of operation etc.

Development, Single-Family. A development of single-family dwelling units, with each dwelling unit including accessory structures, on a separate lot of record.

Development Standards. Dimensional measurements as specified in zoning districts relating to such standards as yard setbacks, lot area, lot frontage, lot width, height and floor area.

Development, Townhouse. A development of townhouse dwelling units.

Director. Director of the Department of Community Development or his/her designee.

Distribution Line. A pipeline other than a gathering or transmission line.

District, Nonresidential. A term used to identify all districts except single-family dwelling districts, all apartment districts, R-6, TR, MHP and residential portions of a CUP — Includes AG-1.

District, Residential. A term which applies to all single-family dwelling districts, all apartment districts, R-6, TR, MHP and residential portions of a CUP — Excludes AG-1.

Drainage Facility. A facility which provides for the collection, removal and detention of surface water or groundwater from land by drains, water course or other means.

Drive-in/up Restaurant. A restaurant designed for customers to park and place and receive food orders while remaining in their motor vehicles.

Driveway. A vehicular access way.

Dwelling. Any building or portion thereof which is designed for or used for residential purposes for periods of more than 30 consecutive days.

Dwelling, Duplex. A structure that contains two dwelling units.

Dwelling, Multifamily. A structure containing three or more dwelling units not including townhouses, triplexes or quadruplexes.

Dwelling, Quadruplex. Four attached dwellings in one building in which each unit shares one or two walls with an adjoining unit or units.

Dwelling, Triplex. A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

Dwelling Unit. One or more rooms constructed with cooking, sleeping and sanitary facilities designed for and limited to use as living quarters for one family.

Dwelling Unit, Single-Family. One dwelling unit that is not attached to any other dwelling unit by any means.

Dwelling Unit, Townhouse. A dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common walls.

3.3.5. *E.*

Electrical Transmission Tower. An electrical transmission tower used to support high voltage (110-kV and above) overhead power lines.

Environmentally Adverse. Any use or activity which poses a potential or immediate threat to the environment and/or is physically harmful or destructive to living beings as described in the Executive Order 12898 regarding Environmental Justice

Environmentally Stressed Community. A community exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

Equipment Compound. A fenced area surrounding or adjacent to the base of a tower or antenna support structure within which accessory equipment is located.

Event Space. See Assembly Hall.

3.3.6. *F.*

Family. Family means one or more persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, or up to 4 unrelated persons, occupying a dwelling unit and living as a single housekeeping unit, as distinguished from persons occupying a rooming, boarding or lodging house, or a hotel.

Family Day Care Home. A Home Occupation in which shelter, care, and supervision are provided for 6 or fewer persons on a regular basis. A Family Day Care Home may provide basic educational instruction.

Farm. A parcel of land which is used for the raising of animals (including fish) on a commercial basis, such as ranching, dairy farming, piggeries, poultry farming and fish farming; a facility for the business of boarding or renting horses to the public; or a site used for the raising or harvesting of agricultural crops such as wheat, field forage and other plant crops intended for food or fiber.

Fast Food Restaurant. See Restaurant, Fast Food.

Flag Lot. A lot where frontage to a public street is provided via a narrow strip of land forming a pole or stem to the buildable portion of the lot.

Flood Lamp. A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Flood Light. A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

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, rest rooms and hallways, spaces devoted exclusively to permanent mechanical systems, permanent storage areas, stairwells, 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. Commonly referred to as Floor Area.

Floor Area, Ground. The heated floor area of the first story of a building above a basement or, if no basement, the lowest story.

Floor Area, Heated. The sum of all heated area of a dwelling or dwelling unit, as appropriate, measured to the inside surfaces of exterior walls, excluding porches, balconies, attics, basements (finished or unfinished), 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, attics with less than 7 feet of headroom, basements, patios and decks are excluded.

Floor Area, Net Leasable. Gross floor area less the common public areas.

Foot-candle. A unit of measure for illuminance on a surface that is everywhere one foot from a point source of light of one candle, and equal to one lumen per square foot of area.

Fuel Oil. A liquid petroleum product that is burned in a furnace for the generation of heat or used in an engine for the generation of power. The oil may be a distilled fraction of petroleum, a residuum from refinery operations, a crude petroleum, or a blend of two or more of these.

Full Cutoff. A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1000 lamp lumens does not numerically exceed 100 (10 percent) at or above a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

Full Cutoff Fixture. An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

3.3.7. *G.*

Garden Center. A business whose primary operation is the sale of seeds and organic and inorganic materials, which include but are not limited to trees, shrubs, flowers, and other plants for sale or transplanting, mulch, pine straw, and other organic products for landscaping purposes, and other limited retail accessory products for gardening and/or landscaping with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27).

Gathering Line. A pipeline that transports fuel oil/liquid petroleum product from a current production facility to a transmission line or main.

Glare. The sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility.

Geographic Search Area (GSA). A geographic area designated by a wireless provider or operator as the area within which to locate a new wireless telecommunications facility, produced in accordance with generally accepted principles of wireless engineering.

Golf Course. A use of land for playing the game of golf. The term shall not include miniature golf, but may include a Country Club and a driving range as an accessory use.

Governmental Facility. A building or institution provided by the government to care for a specified need, such as a courthouse or county jail.

Grade. The average elevation of the finished surface of the ground adjacent to all sides of any structure.

Green space. Green space means permanently protected land and water, including agricultural and forestry land, that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more of the following goals:

(1) Water quality protection for rivers, streams, and lakes;

(2) Flood protection;

(3) Wetlands protection;

(4) Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;

(5) Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;

(6) Scenic protection;

(7) Protection of archaeological and historic resources;

(8) Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and

(9) Connection of existing or planned areas contributing to the goals set out in this paragraph.

Group Residence for Children. A dwelling unit or facility in which full time residential care is provided for children under the age of 17 as a single housekeeping unit. A group residence must comply with applicable federal, state and local licensing requirements. A group residence may not serve the purpose of, or as an alternative to, incarceration.

Group Residence/Shelter. A state licensed 24-hour residential facility functioning as a single housekeeping unit for the sheltered care of persons with special needs which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation. Bedroom suites shall not include kitchen facilities. For purposes of this Ordinance, group residence/shelter shall not include those facilities which exclusively care for children under the age of 17.

Guest House. A detached accessory dwelling unit located on the same lot with a single-family dwelling unit. A guest house may be only used by relatives, guest or employees that work on the property without payment for rent.

3.3.8. *H.*

Hardship. The existence of extraordinary and exceptional conditions pertaining to the size, shape, or topography of a particular property, because of which the property cannot be developed in strict conformity with the provisions of the Zoning Ordinance.

Height. The vertical distance measured from the finished grade along all walls of a structure to the highest point of the coping or parapet of a flat roof or to the average height between eaves and ridge for gable, hip and gambrel roofs.

Historic period lighting. Commercial lighting with an architectural design from the late 19th and early 20th centuries.

Home Occupation. An accessory use of a dwelling unit for business, operated by members of the resident family only. (See Article Section 4.12)

Home Schooling. The practice of teaching one's own children at home in accordance with Sections 20-2-690 and 20-2-690.1 of the Georgia Code.

Hoop Stress. A causation of internal and external pressure loading on the pipe.

Hospital. The provision of in-patient health care for people, including general medical and surgical services, psychiatric care and specialty medical facilities. Out-patient facilities are normally included.

Hotel/Motel. A building in which lodging and/or boarding is provided for fewer than 30 days. The term may include a restaurant in conjunction therewith and may also mean tourist court, motor lodge and inn.

Hotel, Apartment. A use which provides individual units which include cooking facilities, and which are used for temporary lodging to persons not related to the owner for fewer than 30 days.

3.3.9. *I.*

IESNA. The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

Illuminance. The quantity of light arriving at a surface divided by the area of the illuminated surface, measured in foot-candles. Horizontal illuminance applies to a horizontal surface, vertical illuminance applies to a vertical surface. Average illuminance is the level of illuminance over an entire illuminated target area. Maximum illuminance is the highest level of illuminance on any point within the entire area; minimum illuminance is the lowest level of illuminance on any point within the entire area.

Illuminance Levels. Illuminance levels and foot-candles noted in this ordinance mean the maintained illuminance levels; the illuminance levels occurring just prior to lamp replacement and luminaire cleaning. The average illuminance level applies to an entire illuminated target area. Minimum and maximum illuminance levels apply to small areas within the entire illuminated target area. Unless otherwise noted, illuminance levels refer to horizontal illuminance levels.

Illumination. Direct illumination is illumination which is projected from within a sign, building, etc.. Indirect illumination is illumination which is projected onto a sign, building, etc.

Improvement Setback. An area adjacent to a zoning buffer in which no improvements and/or structures shall be constructed. No development activity such as tree removal, stump removal or grinding, land disturbance or grading is permitted without the approval of the Director of the Community Development Department.

Institutional Use. Includes schools, colleges, vocational schools, hospitals, places of worship, asylums, museums, and other similar uses or facilities.

3.3.10. *J.*

Junk Facility. See Salvage/Storage/Junk Facility.

3.3.11. *K.*

Kennel. A use for the shelter of domestic animals where the shelter of these animals involves an exchange of revenue in which a business license is required. If the kennel is a non-business operation, its use may be certified by the Fulton County Animal Control Office.

3.3.12. *L.*

Lamp. The component of an outdoor luminaire that produces light.

Land Disturbance Permit. A permit issued by the Department of Community Development that authorizes the commencement of alteration or development of a given tract of land or the commencement of any land disturbing activity.

Land Disturbing Activity. Any alteration of land which may result in soil erosion from water or wind and the movement of sediment into water or onto lands, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling.

Landfill, Inert Waste Disposal. A disposal facility accepting only waste that will not or is not likely to cause production of leachate of environmental concern by placing an earth cover thereon. Such waste is limited to earth and earth-like products, concrete, cured asphalt, rocks, bricks, yard trash, stumps, limbs and leaves. This definition excludes other types of industrial and demolition waste not specifically listed above. Refer to the rules concerning Solid Waste Management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition.

Landfill, Solid Waste Disposal. A disposal facility accepting solid waste excluding hazardous waste disposed of by placing an earth cover thereon. Solid waste includes waste from domestic, agricultural, commercial and industrial sources. Refer to the rules concerning Solid Waste Management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition.

Landscape Strip. An area required by this ordinance or by conditions of zoning which is reserved for the installation and/or maintenance of plant materials.

Landscaping Business. A business whose primary operation is the sale and/or storage of organic and inorganic materials, plants, mulch, pine straw, and other limited related accessory products for the landscape industry and the storage and use of associated landscape vehicles with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27).

Large Scale Retail/Service Commercial Structure. An individual retail/service commercial structure that is 75,000 square feet or greater. This size threshold refers to an individual establishment and its associated outdoor areas used for display and storage.

Large Scale Retail/Service Commercial Development. A retail/service commercial development with at least one large scale retail structure but no more than four such structures whether freestanding or combined.

Lawful Use. Any use of lots or structure which is not in violation of any existing federal, state or local law, statute, regulation or ordinance.

Library. A place set apart to contain books and other literary material for reading, study, or reference, for use by members of a society or the general public.

Light, Direct. Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of luminaire.

Light, Fully-shielded. Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

Light, Indirect. Direct light that has been reflected or has scattered off of other surfaces.

Loading Space. An area within the main building or on the same lot, which provides for the loading, or unloading of goods and equipment from delivery vehicles.

Lodge and/or Retreat/Campground. A facility allowed with a Use Permit which provides space, food and/or lodging facilities for social, educational or recreational purposes.

Lot. The basic lawful unit of land, identifiable by a single deed. A group of two or more contiguous lots owned by the same entity and used for a single use shall be considered a single lot. Lot, tract and parcel are synonymous.

Lot, Corner. A Multiple Frontage Lot adjoining two streets at their intersection.

Lot Frontage. The shortest property line adjoining a street or, the direction of the main entrance of a building. A property line adjoining a stub street shall not be considered as frontage unless it is proposed for access or is the only street frontage. Front yard requirements shall be measured from this property line. In situations where a multiple frontage lot has equal distance on street frontages, the Community Development Director shall determine the legal lot frontage.

Lot line, front. A lot line which extends the entire length of an abutting street from intersecting property line to intersecting property line. The front lot line of a corner lot abuts the street which adjoins the lot for the shortest distance.

Lot line, rear. Generally, the rear lot line is the lot line opposite and most distant from the front lot line. For a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and the most distant from the front lot line, not less than twenty feet long, and wholly within the lot. True triangular lots do not have rear lot lines. Lots with more than one front lot line do not have rear lot lines. The Director of the Department of Community Development or his/her designee shall make the final determination of rear lot lines when in dispute or undefined by this definition.

Lot line, side. A lot line which is not a rear or front lot line.

Lot Line/Property Line. A line established through recordation of an approved plat, or a deed in the absence of a platting requirement, which separates a lot from other lots, or a lot from rights-of-way.

Lot, Multiple Frontage. Lots adjoining more than one street.

Lot, Nonconforming. See "Nonconforming Lot, Use or Structure".

Lot-of-Record. A lot, whether lawful or unlawful, which appears on a deed and/or plat recorded in the official records of the Clerk of Superior Court.

Lot, Unlawful. Any lot-of-record which, at the time of recordation in the official records of the Clerk of Superior Court, was not in compliance with zoning and subdivision laws in effect at that time.

Lot Width, Minimum. The least dimension required along the building line specified for each district, parallel to the lot frontage and measured between side lot lines.

Luminaire. This is a complete lighting system and includes a lamp or lamps and a fixture.

Luminaire Height. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

3.3.13. *M.*

Maintenance, Normal. The upkeep of a sign for the purpose of maintaining safety and appearance which may include painting, bulb replacement, panel replacement, letter replacement, repair of electrical components, and structural reinforcements to its original condition.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building used for advertising or identification.

Massing. Varying the massing of a building may be achieved by varying the surface planes of the building with porches, balconies, bay windows, and/or overhangs, and/or stepping-back the buildings from the second floor and above, and/or breaking up the roofline with different elements to create smaller compositions.

Medical Related Lodging. A use which provides temporary lodging for family members of a hospitalized patient.

Mineral Extraction. Severance and/or removal of sand, stone, gravel, top soil, and other mineral resources whenever such severance and/or removal is not conducted in conjunction with a permitted development activity.

Mini-warehouse. A structure or group of structures containing separate spaces/stalls which are leased or rented on an individual basis for the storage of goods.

Minor Variance. An application requesting deviation from the minimum yard requirements, not to exceed ten percent of the dimensional requirements.

Mobile Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, mobile home includes travel trailers and similar vehicles placed on a site for 180 consecutive days or more. For all other purposes including insurance purposes under FEMA sponsored programs, mobile home does not include travel trailers and similar vehicles. A mobile home is not a modular home.

Mobile Home Park. Use of property for two or more mobile homes for living purposes, and spaces or lots set aside and offered for use for mobile homes. Does not include mobile home sales lot.

Model Home. A dwelling unit used for conducting business related to the sale of a development.

Modification. An application requesting change to an approved condition of zoning or use permit, except for conditions that pertain to a change in use, increase in density, and/or increase in height.

Modular Home. A factory-fabricated, single-family dwelling built in one or more sections, designed for placement on a permanent foundation and not having a permanent chassis. A modular home is not a mobile home.

Monopole. A cylindrical, self-supporting (i.e., not supported by guy wires) tower constructed of a single spire.

Motel. See Hotel/Motel.

Multi-tenant. Two or more businesses that provide goods and/or services within separate structures located on the same site or within the same structure that provides wall separation and private access for each business.

3.3.14. *N.*

Nadir. The point directly below the luminaire defined as 0 degrees vertical angle.

Nonconforming (Grandfathered) Lot, Use or Structure. An existing use, lot or structure that was nonconforming at the time of the adoption of the City of Johns Creek Zoning Ordinance on, or subsequent amendments thereto, and does not now meet the minimum requirements of the district in which it is located. Also, a use, lot or structure which has been made nonconforming by some county or state action. Any change or addition to a use, lot or structure must comply with current provisions of the Zoning Ordinance. Uses, lots or structures that were not legally permitted or platted do not receive grandfathering status.

Nursing Home. A use in which domiciliary care is provided to 3 or more chronically ill non-family members who are provided with food, shelter and care. This use shall not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. Convalescent Center, nursing home and personal care home are further distinguished in Administrative and Use Permit provisions.

3.3.15. *O.*

Off-Premise. A location outside of the subject lot for a designated use.

Off-Site/Premise. The location of a structure or use outside the lot-of-record of the subject development including the adjoining street or other right-of-way.

On-Premise. The individual lot-of-record on which the use is located.

On-Site/Premise. The location of a structure or use within the confines of a property delineated by property lines or, if referenced in a zoning or use permit case, within the confines of the boundaries of the legal description filed with the petition.

Office, Temporary. A mobile, manufactured or other structure which is used as an office for real estate sales, on-site construction management and related functions. Requires an administrative permit under Temporary Structures.

Open space. A portion of a site which is permanently set aside for public or private use, such as passive and/or active recreational uses. Detention facilities, required buffers, landscaped strips, and platted residential lots shall not be included in open space calculations."

Out of store marketing device. An out of store marketing device is any facility or equipment which is located outside of a primary building on a site zoned for non-residential uses, which is used for the primary purpose of providing a product or service without the owner's immediate presence, and which is manufactured to include a color, form, graphic, illumination, symbol, and/or writing thereon to communicate information regarding the product or service provided thereby to the public. Examples of out-of-store marketing devices include: fuel pumps, bank ATM units, vending machines, newspaper racks, drink machines, ice boxes, and phone booths. Donation boxes are not considered out of store marketing devices (see outdoor storage).

Outdoor Display. Open air display of products actively available for sale.

Outdoor Storage. Open air storage of goods, merchandise, materials, vehicles/equipment and/or any similar object that is not clearly intended for outdoor use on the premises.

Outparcel (spin-site). A portion of a larger parcel of land generally designed as a site for a separate structure and business from the larger tract. An outparcel may or may not be a subdivision of a larger parcel. To be recognized as an outparcel, the portion must be identified on a Site Plan approved for the larger parcel.

3.3.16. *P.*

Parcel. See lot.

Parking Lot. An area which is used for the parking of vehicle.

Parking space. An area designated for the parking of one vehicle on an all weather surface. No more than two carport or garage spaces may offset the minimum parking requirements in a single-family residential district. (Specifications included in Article XVIII)

Path. A cleared way for pedestrians and/or bicycles that may or may not be paved or otherwise improved.

Pawn shop. A business that lends money at interest on personal property deposited with the lender until redeemed.

Personal Care Home/Assisted Living. A state licensed use in which domiciliary care is provided to adults who are provided with food, shelter and personal services. This use shall not include hospitals, convalescent centers, nursing homes, hospices, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Personal Service. Any business enterprise with the primary purpose of providing services that are essential for the needs of the individual.

Plans Review. The act of reviewing plans and specifications to insure that proposed undertakings comply with various governing laws, ordinances and resolutions. Compliance is subsequently utilized to determine that work and materials are in accordance with approved plans and specifications.

Plant Nursery. Any land used to raise trees, shrubs, flowers and other plants for sale or transplanting, but not including the retail sale of any related garden supplies such as chemical fertilizer, tools and other similar goods and/or equipment, or the retail sale of plants not grown on the property

except with an approved Use Permit for Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component (Article 19.4.27).

Plat, Final. A finished drawing of a subdivision which provides a complete and accurate depiction of all legal and engineering information required by the Development Regulations. Certification for recording and ratification of the Director's approval by the Mayor and City Council is required.

Plat, Preliminary. A drawing which shows the proposed layout of a subdivision in sufficient detail to clearly indicate its workability and feasibility, but is not in final form for recording, pursuant to the Development Regulations.

Pipeline. Any conduit through which natural gas, petroleum, oxygen, or other flammable or combustible products, or any of their derivative products are conveyed or intended to be conveyed.

Porch. A roofed open structure projecting from the exterior wall of a building and having at least seventy percent of the total area of the vertical planes forming its perimeter unobstructed in any manner except by insect-screening between floor and ceiling.

Primary Variance. An application requesting relief from the standards of the Zoning Ordinance, except relief from use, minimum lot area, or minimum lot frontage.

Prison/Correctional Facility. A public or state-licensed private owned building(s), and all accessory uses and structures, used for long-term confinement housing and supervision of persons who are serving terms of imprisonment for violation of criminal laws. A prison is distinguished from a jail, in that a prison is considered to be larger and for longer terms, and is normally operated under the authority or jurisdiction of the State or Federal government. (See Article 19.4.34, Private Correctional Facility)

Propagation Study. A computer simulated model of how a wireless telecommunications facility should perform as part of a network or system. It gives an idea of the service coverage, dead-spots and performance of a proposed wireless telecommunications facility for planning purposes, as well as existing facilities for diagnostic and planning purposes.

Properties, Historic. A property which contains historic structures or which otherwise has sufficient historic merit as previously determined by the City Council so as to require preservation.

Property. When used in conjunction with an application for rezoning, an area of land composed of less than one lot, or of accumulations of one or more lots, or parts thereof.

Protected Zone. All lands that fall outside the buildable area of a parcel, all areas of a parcel required to remain in open space, all areas required as landscape strips and/or buffers (including zoning buffers, state water buffers and tributary buffers) and all tree save areas according to the provisions of the City of Johns Creek Zoning Ordinance, conditions of zoning, use permit or variance approval, and/or the Tree Preservation Ordinance.

3.3.17. *Q.*

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3.3.18. *R.*

Radiofrequency Engineer. A radiofrequency expert that is a professional engineer licensed in the State of Georgia with specialized training and experience in the development and analysis of wireless telecommunications facilities and networks, or a professional engineer licensed in the State of Georgia that is experienced in the telecommunications field.

Recreational Court, Private. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and which serves a single-family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including such improved areas which are owned and/or controlled by a neighborhood club or similar organization. A basketball goal adjoining a driveway of typical residential driveway dimensions shall not constitute a recreational court.

Recreational Court, Public. An improved area designed and intended for the playing of a game or event such as basketball or tennis, and is operated as a business or as a club unless such club is a neighborhood club or similar organization identified under Recreational Court, Private.

Recreational Facilities. Includes parks, recreation areas, golf courses, playgrounds, recreation counters (indoor and outdoor), playing fields, and other similar uses or facilities.

Recreation Fields. An outside area designed and equipped for the conduct of sports and leisure-time activities including but not limited to softball, soccer, football, and field hockey.

Recreational Vehicle. A vehicle used for leisure time activities and as a dwelling unit while traveling. Examples include a camper, a motor home and a travel trailer. As distinguished from a mobile home, dimensions shall not exceed a width of eight and one-half (8.5) feet and a length of forty five (45) feet.

Recycling Center, collecting. Any facility utilized for the purpose of collecting materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials. Such use may be principal or accessory to a non-residential use on non-residentially zoned property, except AG-1 zoned properties unless, the primary use is a permitted non-residential use.

Recycling Center, processing. Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled including, but not limited to, plastics, glass, paper and aluminum materials whenever such use is permitted in M-1 Zoning Districts. A recycling center is not to be considered a landfill.

Relocated Residential Structure. A dwelling which has been removed from one location for relocation to another lot.

Repair Garage, Automobile. A use which may provide a full-range of automotive repairs and services including major overhauls. May include paint and body shops.

Repair Garage, Truck and Heavy Equipment. A use which may provide a full-range of repairs and services including major overhauls on trucks and heavy equipment. Includes paint and body shops.

Repeater. A low power, mobile radio service wireless telecommunication facility used to extend service coverage of cell areas to areas not covered by the originating facility.

Residential Use/Dwelling. Any building or portion thereof where one actually lives or has his home; a place of human habitation.

Restaurant. A food service use which involves the preparation and serving of food to seated patrons. A cafeteria shall also be considered to be a restaurant. The restaurant seating area must be at least 40% of the gross square footage of the restaurant facility. Seating space located outside of the main structure (i.e. patios, decks, etc.) shall not be included in calculating the seating space.

Restaurant, Café: A food service use, excluding fast food, which involves the preparation and sales of items that require minimum production and overhead, such as light food and drinks. Cafes can include, but are not limited to coffee shops, tea rooms, ice cream/frozen yogurt stores, cupcake shops, donut shops, and bakeries.

Restaurant, Fast Food. A food service establishment, excluding cafes, which sells food from a counter or window for consumption on-premises or off-premises.. Fast food restaurants include a drive-through window.

Retail Use. A business whose primary purpose is the sale of merchandise to consumers.

Retreat. See Lodge.

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

Roadside Produce Stand. A use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or prepared packaged meats for sale from a vehicle or a temporary structure. The consumption of food on-site is prohibited.

Roadside Vending. The sale of merchandise such as clothing, crafts, household item, firewood, etc., from a temporary table or cart.

Rooming House. A residential use other than a hotel or motel in which lodging may be provided to non-household members for periods of 30 days or longer, and which does not include the provision of meals.

3.3.19. *S.*

Salvage/Storage/Junk Facility. Any use involving the storage or disassembly of wrecked or junked automobiles, trucks or other vehicles; vehicular impound lots; storage, bailing or otherwise dealing in scrap irons or other metals, used paper, used cloth, plumbing fixtures, appliances, brick, wood or other building materials; and the storage or accumulation outside of a storage building of used vehicle tires or tire carcasses which cannot be reclaimed for their original use. Such uses are storage and/or salvage facilities whether or not all or part of such operations are conducted inside or outside a building or as principal or accessory uses. State approval is required for all sites utilized for reclamation and/or disposal of toxic and/or hazardous waste.

Scale. Scale refers to the relationship of the size of a building to neighboring buildings and of a building to a site. In general, the scale of new construction should relate to the majority of surrounding buildings.

Scenic View. A wide angle or panoramic field of sight or open space vista that may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A scenic view may be to a far-away object, such as a mountain, or a nearby object, or as part of an open space vista.

Schools, Colleges and Universities. Any educational facility established under the laws of the state (and usually regulated in matters of detail by local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open, usually without charge, to all residents of the city, town or other district; private schools which have students regularly attending classes and which teach subjects commonly taught in these schools of this state; any educational facility operated by a private organization or local county, or state that provides training or education beyond and in addition to that training received in grades kindergarten to twelfth, including but not limited to, trade, business and vocational schools; any institution of higher learning, consisting of an assemblage of colleges united under one corporate organization or government, affording instruction in the arts and sciences and the learned professions, and conferring degrees.

School, Private. An educational use having a curriculum at least equal to a public school, but not operated by the Fulton County Board of Education.

School, Special. An educational use devoted to special education including the training of gifted, learning disabled, mentally and/or physically handicapped persons, but not operated by the Fulton County Board of Education.

Screen. A fence, wall, hedge, landscaping, earthen berm, buffer area or any combination of these that is designed to provide a visual and/or physical barrier.

Seasonal Business Use. A primary use involving the sale of items related to calendar holidays, such as Christmas trees, Halloween pumpkins, etc., which may be conducted outside.

Secondary Variance. An appeal of a decision and/or action of a department director or deputy department director authorized to hear a variance request or interpretation of the Zoning Ordinance.

Self-Storage/Mini. A single-level structure or group of structures containing separate spaces/stalls and which are leased or rented to individuals for the storage of goods.

Self-Storage/Multi. A multi-level structure containing separate storage rooms/stalls under a single roof that are leased or rented.

Senior housing. A single-family or multi-family development intended for, operated for and designed to accommodate residents 55 years of age and older. Senior housing communities are designed for seniors to live on their own, but with the security and conveniences of community living. Some provide communal dining rooms and planned recreational activities (congregate living or retirement communities), while others provide housing with only minimal amenities or services.

Service Commercial Use. A business whose primary purpose is to provide a service.

Service Line. A distribution line that transports natural gas from a common source of supply to: (1) a customer meter or the connection to a customer's piping, whichever is farther downstream, or (2) the connection to a customer's piping if there is no customer meter. The customer meter is the meter that measures the transfer of gas from one operator to a customer.

Service Station. A use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to 4 or fewer bays excluding no more than one attached or detached bay for washing cars.

Setback. A space between a property line and a building or specified structure.

Setback, Minimum. The minimum yards as specified in the various use districts. A minimum required space between a property line and a structure. An area identified by a building line.

Shopping Center. A group of retail/service commercial establishments, planned and developed for the site upon which they are built and owned as a unit, with off-street parking provided on the property.

Sidewalk. A paved area designated for pedestrians which is constructed in accordance with the City of Johns Creek standards.

Site Plan. A detailed plan, drawn to scale, based on a certified boundary survey, and reflecting conditions of zoning approval, various requirements of State law, County and City Ordinances and Resolutions.

Site Plan, Preliminary. A detailed plan, normally associated with rezoning and Use Permit requests, which is drawn to scale and reflects the various requirements of State law and of City Ordinances and Resolutions. A Preliminary Site Plan must be drawn to scale and shall contain information listed for such a plan in the Development Review Guide.

Skywalk. An elevated, grade separated pedestrian walkway or bridge located over a public right-of-way.

Small Cell Facility. A miniaturized wireless telecommunication facility used to provide targeted capacity or service coverage. Small cells can consist of one or more radio transceivers, antennas, coaxial cable, power supply, and other associated electronics. Often, this type of wireless telecommunication facility will have all of the components, except for the coaxial cables and antennas gathered in a self-contained protective housing, or attached separately to an antenna support structure. Small cell facilities are generally made up of an equipment enclosure and antenna, and are often attached to an existing structure.

Special Event. An event or happening organized by any person or organization which will generate or invite considerable public participation and/or spectators for a particular and limited purpose of time, including, but not limited to, special sales and service promotions, car shows, arts and crafts shows, horse shows, carnivals, festivals, exhibitions, circuses, fairs, show houses and tours of homes for charity. Special events are not limited to those events conducted on the public streets but may occur entirely on private property. Special events may be for profit or nonprofit. Events which will occur in the public right-of-way, such as roadway foot races, fundraising walks, bikeathons, parades, etc. are subject to the approval of the City of Johns Creek City Manager and his/her designee.

Spill Light. The light that illuminates surfaces beyond the intended area of illumination caused by the uncontrolled direct light component from the luminaires.

Stadium. A large open or enclosed structure used for sports and other major events and partly or completely surrounded by tiers of seats for spectators.

Stealth Technology Installation. Manmade trees (such as monopines), clock towers, campaniles, free standing steeples, light poles and similar alternative design structures that are, in the opinion of City Council, compatible with the natural setting and surrounding structures, and effectively camouflage or conceal the presence of antennas or towers.

Story. A portion of a building between the surface of any floor and the floor or space above it, excluding basements and attics.

Story, Half. A heated and finished area below a roof, one or more of the vertical walls of which are less than normal ceiling height for the building.

Street. A roadway/right-of-way located and intended for vehicular traffic. Streets may be public or they may be private if specifically approved by the Department of Community Development as part of a subdivision plat.

Public streets are rights-of-way used for access owned and maintained by the federal, state, or local government.

Private streets are roadways constructed to the City of Johns Creek Standards but owned and maintained by a private entity. Necessary easements for ingress and egress for police, fire, emergency vehicles and all operating utilities shall be provided. Should the City of Johns Creek ever be petitioned to assume ownership and maintenance of the private streets prior to dedication of the streets, they must be brought to acceptable the City of Johns Creek standards subject to the approval of the Director of Public Works.

Stub streets are rights-of-way that dead ends into an interior property line.

Freeway. Any multi-lane roadway having full access control and separation of directional traffic. A freeway accommodates large volumes of high speed traffic and provides efficient movement of vehicular traffic for interstate and major through travel.

Principal Arterial. Any roadway that has partial or no access control and is primarily used for fast or heavy traffic. Emphasis is placed on mobility rather than access to adjacent land.

Minor Arterial. Any roadway that has partial or no access control and is primarily used for interconnectivity of major arterials and places more emphasis on access to adjacent land over mobility than principal arterials.

Collector Road. Any roadway that has partial or no access control and has more emphasis on access to adjacent land over mobility than arterials. The primary purpose is to distribute trips to and from the arterial system to their destination points and allow access to the local roads.

Local Road. Any roadway that has no access control and places strong emphasis on access to adjacent land over mobility while service to through traffic is discouraged.

Full Access Control. Preference is given to through traffic by providing access connections only with selected public roads and by prohibiting crossing at grade and direct private connections.

Partial Access Control. Preference is given to through traffic to a degree that in addition to connection with selected public roads, there may be some crossing at grade and some private connections.

No Access Control. Preference is generally given to access to adjacent land rather than mobility.

Structure. Anything built or constructed which occupies a location on, or is attached, to the ground. Driveways, surface parking lots, patios, and similar paved surfaces are not considered structures.

Structure, Accessory. A subordinate structure, customarily incidental to a principal structure or use and located on the same lot. Examples of accessory structures in single-family dwelling districts include outbuildings, such as, tool sheds, woodsheds, workshops, outdoor kitchens, fire pits, pool houses, gardens, gazebos, guest houses, storage sheds, playground sets, tree houses, detached garages and detached carports, etc. Fences and retaining walls are not considered accessory structures. Driveways, surface parking lots, patios, and similar paved surfaces are not considered accessory structures.

Structure, Historic. A structure which has been formally designated as an Historic Structure as designated by the Georgia Historic Preservation Division of the Department of Natural Resources or the United States Department of the Interior or a City historic preservation committee, if one is established, or which has sufficient historic merit as previously determined by the City Council so as to require preservation.

Structure, Principal. A structure in which the principal use or purpose on a property occurs, and to which all other structures on the property are subordinate. Principal shall be synonymous with main and primary.

Structure, Temporary. The construction, erection, or placement of a structure for a specified period of time, but in no case longer than 3 years.

Subdivision. The division of land into two or more lots. A development consisting of subdivided lots.

Surface, All-weather. Any surface treatment, including gravel, which is applied to and maintained so as to prevent erosion, and to prevent vehicle wheels from making direct contact with soil, sod or mud; and which effectively prevents the depositing of soil, sod or mud onto streets from areas required to be so treated.

Swimming Pool, Private. A recreation facility designed and intended for water contact activities which serves a single-family dwelling(s), duplex dwellings and/or multi-family dwellings, or combinations of dwelling types, including pools which are owned and/or controlled by a neighborhood club or similar organization.

Swimming Pool, Public. A recreation facility designed and intended water contact activities which is operated as a business or as a club unless such club is associated with a neighborhood club or similar organization.

3.3.20. *T.*

Thoroughfare, Major. Any street which is classified in the Transportation Element of the Comprehensive Plan as either a freeway, an arterial or a major collector.

Thoroughfare, Minor. Any street which is classified in the Transportation Element of the Comprehensive Plan as a minor collector or local street.

Tower. Any freestanding structure that is designed and constructed primarily for the purpose of supporting one or more antennas, antenna array(s), and other wireless transmission equipment, including lattice towers, guy towers and monopoles, but not alternative antenna support structures or attached antenna support structures. The term includes, without limitation, wireless communication towers such as radio and television transmission towers, microwave towers, common carrier towers, cellular (cell) and digital telephone towers and the like, but excluding amateur radio antenna.

Tower, Guy. A tower supported, in whole or in part, by guy wires and ground anchors.

Tower, Lattice. A guyed or self-supporting open frame tower that has three (3) or four (4) sides.

Transfer station. A facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal facility or processing operation.

Transmission Line. A pipeline other than a gathering line that (1) transports fuel oil/liquid petroleum product from a gathering line or storage facility (tank farm) to a distribution center or storage facility (tank farm) and/or (2) transports fuel oil/liquid petroleum product within a storage field.

Trespass Light. The off site spill light that illuminates beyond the property boundaries in which the light fixture is installed, where it is neither wanted nor needed.

Truck Terminal. A primary use of property where trucks/trailers are either temporarily stored, maintained or based. Trucks/trailers shall have current registration and license plates with decal.

3.3.21. *U.*

Use. The purpose or function arranged or intended for a structure or property.

Use, Accessory. A subordinate use which is customarily incidental to the principal use of a lot, and which is located on the same lot as a principal use.

Use, Principal. The primary or main purpose or function of a lot or structure. Synonymous with Main and Primary.

Use Permit. A permit approved by the Mayor and City Council, pursuant to a public hearing, which authorizes a use which must meet certain standards which exceed the requirements of the district as-a-whole.

Utility Pole. An existing structure owned or operated by a public utility, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for electricity, telephone, or cable television.

3.3.22. *V.*

Variance, Primary. An application requesting relief from the standards of the Zoning Ordinance, except relief from use, minimum lot area, or minimum lot frontage.

Variance, Secondary. An appeal of a decision and/or action of a department director or deputy department director authorized to hear a variance request or interpretation of the Zoning Ordinance.

Vegetative Screen. An evergreen planting which, within three years of planting, provides a 100 percent visual barrier between a lot and adjacent lots and uses with a minimum height of 6 feet. A vegetative screen is composed of plant materials.

Vehicle, Junk or Salvage. Any automobile, truck or other vehicle which is missing one of the following:

1) Current registration;
2) License plate with current decal;
3) Proof of liability insurance;
4) Drive train component for more than 30 days.

Veterinary Clinic/Hospital. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

3.3.23. *W.*

Waste. Materials that are discarded, disposed of or no longer usable.

Waste Disposal Boundary. The limit of all waste disposal areas, appurtenances, and ancillary activities (including but not limited to internal access roads and drainage control devices).

Waste, Hazardous. See Georgia Department of Natural Resources definition.

Waste, Solid. See Georgia Department of Natural Resources definition.

Wireless Communication Services. Wireless radio, data and/or telecommunications services, including cellular, telephone, television, microwave, analog, and digital services, personal wireless services, personal communication services, and other similar forms of electronic or wireless communications. See also, the Telecommunications Act of 1996 for a definition of 'personal wireless services.'

Wireless Telecommunications Facility. Any facility, structure, and/or accessory equipment designed or intended to be used for transmitting or receiving electromagnetic waves, radio or other wireless signals or to otherwise provide wireless communication services, and usually consisting of wireless transmission equipment, including antenna(s), antenna array(s), and accessory equipment, mounted to or supported by a tower, antenna support structure, pole or other structure; however, neither an amateur radio antenna nor a minor antenna constitute a "Wireless Telecommunications Facility." The following nonexclusive list shall be considered a Wireless Telecommunications Facility: new and existing towers or antenna support structures, replacement towers or antenna support structures, collocations on existing towers or antenna support structures, and attached wireless telecommunications facilities.

Wireless Transmission Equipment. The set of equipment and network components, exclusive of the underlying tower or antenna support structure, including antennas, antenna arrays, transmitters, receivers, base stations, power supplies, cabling, accessory equipment, and equipment enclosures used in connection with a tower or antenna to provide wireless communication services.

3.3.24. *X.*

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3.3.25. *Y.*

Yard. A land area extending between a structure and a lot line.

Yard, Front. A yard abutting any street except the side street on a corner lot. Front yards extend the entire length of an abutting street from intersecting lot line to intersecting lot line. The front yard of corner lots shall be applied to the street which abuts the lot for the shortest distance.

Yard, Minimum. The minimum distance between a building or specified structure and a lot line as specified in the district regulations.

Yard, Rear. The rear yard is the minimum required distance between the rear lot line and a structure.

True triangular lots do not have rear yards. Lots with more than one front lot line do not have rear yards. The Director of the Department of Community Development or his/her designee shall make the final determination of rear yards when in dispute or undefined by this definition.

Yard, Side. A yard which is not a front or rear yard.

3.3.26. *Z.*

Zoning Conditions. Requirements placed on property by the Mayor and City Council at the time of approval of a rezoning and/or use permit.

(Ord. No. 2013-04-10, § 1, 7-22-2013)

ARTICLE IV. GENERAL PROVISIONS

Sec. 4.1. Scope and Intent.

Sec. 4.2. Lot, Structure and Use Regulations.

Sec. 4.3. Exceptions.

Sec. 4.4. Large Scale Retail/Service Commercial Structures and Developments 75,000 Square Feet or Greater.

Sec. 4.5. Accessory Uses and Structures.

Sec. 4.6. Refuse Areas.

Sec. 4.7. Reserved.

Sec. 4.8. Animals.

Sec. 4.9. Night Sky Ordinance.

Sec. 4.10. Architectural Treatment of Common Aggregate Block.

Sec. 4.11. Fences and Walls.

Sec. 4.12. Home Occupation.

Sec. 4.13. Outparcel Development.

Sec. 4.14. Reserved.

Sec. 4.15. Noise.

Sec. 4.16. Landfills, Transfer Stations, Quarries and/or Surface Mining Sites.

Secs. 4.17—4.22. Reserved.

Sec. 4.23. Buffers and Landscape Strips.

Sec. 4.24. Reserved.

Sec. 4.25. Property Number/Street Address.

Sec. 4.26. Inclusionary Housing Zoning.

Secs. 4.27—4.29. Reserved.

Sec. 4.30. Zoning Text, District Classifications and Boundaries.

Sec. 4.1. Scope and Intent.

This article includes a variety of regulations that apply to uses and structures allowed in more than one use district or to uses and structures allowed in all use districts except when specifically excluded by provisions contained elsewhere in this Ordinance.

4.1.1. *Other Laws Apply.* Compliance with this Ordinance shall not substitute for compliance with federal and state laws nor for other City of Johns Creek ordinances and resolutions.

4.1.2. *Judicial and Quasi-judicial Actions.* Zoning-related legal proceedings or appeals to boards designated within this Ordinance shall stay deadlines and expiration dates which are designated in this Ordinance. Appeals from decisions of the Mayor and City Council and the Board of Zoning Appeals shall be brought within 30 days. Appeals from the application, interpretation and administration of this Ordinance shall be to the Board of Zoning Appeals unless otherwise specifically provided for in the various sections of this Ordinance.

4.1.3. *Administrative Approval.* The action on a request brought under a provision of the Zoning Ordinance which requires approval by at least one City of Johns Creek official, accompanied or followed by an interoffice memorandum which shall be addressed to, and included in, the appropriate zoning file or alternate file if there is no zoning file.

Sec. 4.2. Lot, Structure and Use Regulations.

4.2.1. *Use, Permitted Use, Change of Use.* Properties shall be used and structures or parts thereof shall be erected, constructed, reconstructed, modified, moved, enlarged, or altered in conformity with the regulations contained in this Ordinance and any conditions of zoning.

A. Permitted Uses. If either a specific use or a class of use is not listed as a permitted use in compliance with the zoning district standards and any zoning conditions, such specific use or class of use shall be prohibited in that district.

B. Change of Use. Any change of use, including a change of a single use within a multiple use structure, shall comply with the requirements of this Ordinance and any condition of zoning.

C. Single-Family District Limitations. Single-family dwelling districts shall be restricted to no more than one main or principal structure per lot.

4.2.2. *Lots.* Structures shall be erected and uses shall be established only upon a single lot which meets or exceeds the requirements of this ordinance or conditions of zoning, whichever is more restrictive. Regardless of the minimum requirements of individual zoning districts, a plat shall not be approved until the buildable area [including the buildable area(s) within the 50 percent of a minimum lot size which must be outside a flood plain] of every lot is determined to be sufficient to accommodate a square configured from the minimum building area required by the zoning district.

Lots created within a development project to accommodate detention and retention facilities or median islands for entrance features or signage which are incidental, related, appropriate, and clearly subordinate to the main use in the project are exempt from the minimum lot size requirements in all zoning districts. No other construction/building shall be permitted on such lots. A 10-foot access easement is required in accordance with established standards for detention/retention pond lots.

4.2.3. *Reduction of Lot Area.* When a lot or property is reduced in size, all resulting divisions and all structures shall meet the minimum requirements of the applicable provisions of this Ordinance; except that if a lot or property is reduced in area to less than the district minimum lot size as a result of government action, the lot shall be deemed nonconforming.

4.2.4. *Division of Conditionally-Zoned Parcels.* All lots of a proposed subdivision must be in keeping with unit and density allocations, and other conditions of zoning as well as the Development Regulations and this ordinance. If each proposed parcel does not conform to such conditions, the proposed division shall require a rezoning to accomplish the desired modification of conditions.

4.2.5. *Uses and Structures Permitted in Yards, and Outside Storage.*

A. Uses and Structures Permitted in Yards. In addition to uses which may be provided for, conditioned or excluded from yards by other sections of this ordinance, yards may be used for driveways, signs, at-grade parking, loading areas, fountains, water features, flag poles, patios, swimming pools, yard ornaments not to exceed four feet in height, walls, fences, walkways, lawns, buffers, landscape areas, underground utilities, well houses, storm water management facilities and tree preservation areas. No part of any yard or use made thereof shall serve the requirements for any other lot or structure.

B. .The provisions for outdoor storage and outdoor display in all non-residential zoning districts can be found in Section 12.E.5. Miscellaneous Provisions.

4.2.6. *Maintenance of Vegetation.* Pervious surfaces including yards shall be permanently maintained and shall be landscaped with grass, trees, shrubs, hedges and/or other landscaping materials approved by the City Arborist.

4.2.7. *Lots with Well and/or Septic Tank.* Any lot upon which both an individual well and septic tank/drain field are utilized shall be governed by regulations of the Fulton County Health Department. Lots utilizing both a well and a septic tank shall be not less than one acre in size. Any lot proposed to be served by either a well or a septic tank/drain field shall comply with the larger of the minimum lot area required by the Health Code or the minimum required for the district in which the lot is located.

4.2.8. *Multiple Zoning.* Whenever a lot is zoned for more than one single-family dwelling district or zoned a single-family district(s) and AG-1, the district which comprises the largest area shall control the development standards for that lot.

4.2.9. *Building Separations.* All building separations shall be as specified by the Standard Building Code.

Sec. 4.3. Exceptions.

This Ordinance shall apply to every lot, parcel, property, use and structure in the City of Johns Creek except as excluded in this section. Furthermore, the provisions herein shall not apply to properties and structures owned, operated and/or leased for use by the City of Johns Creek for public purposes. The use of said property for a nonconforming use does not establish a precedent for other non-public (governmental) uses. Should the public use cease to exist, the provisions herein shall apply.

4.3.1. *Nonconforming Lots, Uses and Structures.* Within the zoning districts established by this ordinance there may exist lots, structures, and uses of both land and structures which were lawful before this ordinance was adopted or subsequently amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance as adopted or subsequently amended. Nonconforming lots, uses and structures may continue in their nonconforming status with the following limitations and/or requirements.

A. Nonconforming Lot. A single, lawful lot-of-record which does not meet the requirements of this ordinance for area or dimensions, or both, may be used for the buildings and accessory buildings necessary to carry out permitted uses subject to the following provisions:

1. Parking space requirements as provided for in Article XVIII are met; and
2. Such lot does not adjoin another vacant lot(s) or portion of a lot in the same ownership.
3. If two (2) or more adjoining lots or portions of lots in single ownership do not meet the requirements established for lot width, frontage or area, the property involved shall be treated as one lot, and no portion of said lot shall be used or sold in a manner which diminishes compliance with this ordinance. This paragraph shall not apply to non-conforming lots when fifty percent or more of adjoining lots on the same street are the same size or smaller.

B. Nonconforming Uses of Land. When a use of land is nonconforming pursuant to the provisions of this ordinance, such use may continue as long as it remains otherwise lawful and complies with the following provisions:

1. No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than that which was occupied at the time use became nonconforming;
2. No nonconforming use shall be moved in whole or in part to any other portion of the lot not occupied by such use at the time the use became nonconforming; and
3. If any nonconforming use of land ceases for a period of more than one year, any subsequent use of such land shall comply with this ordinance.

C. Nonconforming Use of Structures. If a lawful use of structure, or of a structure and lot in combination, exists at the effective date of adoption of this ordinance or its subsequent amendment that would not be allowed under provisions of this ordinance as adopted or amended, the use may be continued so long as it complies with other regulations, subject to the following conditions:

1. No existing structure devoted to a use not permitted by this ordinance shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a permitted use;
2. Any nonconforming use may be extended throughout any part of a building which was arranged or designed for such use at the time the use became nonconforming, but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any nonconforming use of a structure or structure and land may be changed to another nonconforming use of the same or more restrictive nature;
4. When a nonconforming use of a structure or a structure and land in combination is replaced with a conforming use, such structure or land may not later revert to a nonconforming use;
5. When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for one year, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located; and
6. A nonconforming use of a structure and/or a nonconforming use of land shall not be extended or enlarged by attachment to a building or land of additional signs which can be seen from off the land or by the addition of other uses of a nature which would be prohibited generally in the district.

D. Nonconforming Structures. When a structure exists on the effective date of adoption of this ordinance or its amendments that could not be built under the terms of this ordinance because of restrictions on building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations, subject to the following conditions:

1. No structure may be enlarged or altered in a way which increases its nonconformity;
2. Destruction, by any means, of more than sixty percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of this ordinance;
3. Any structure which is moved, for any reason and for any distance whatever, shall conform to the regulations for the district in which it is located;
4. Telecommunications Facilities.
   a. All telecommunication facilities existing on the effective date of this ordinance shall be allowed to continue to be used as they presently exist.
   b. Routine maintenance (including modifications to accommodate the co-location of an additional user or users) shall be permitted on existing telecommunication facilities.
   c. Replacement of antennas on a structure with different antennas shall be considered routine maintenance so long as the replacement antenna(s) does not increase the height of any existing structure.

E. Rezoning Which Results in Nonconforming Structures. When a property containing lawful structures is rezoned, the following shall apply:

1. The approval of the rezoning by the Mayor and City Council shall automatically adjust minimum/maximum yards to the extent necessary for existing structures to comply.
2. All new construction, expansions or additions shall comply with the minimum yard requirements of the new district.
3. Buffers and landscape areas shall be established by conditions of zoning which shall have precedence over the district standards contained in Section 4.23
4. Destruction or removal of buildings which preexisted rezoning shall reinstate the development standards of the then applicable district provisions of this Zoning Ordinance.

F. Exemptions Due to State, County or City Action. Whenever a lot becomes nonconforming as a result of land acquisition by the City, county or state, building permits shall be granted for new construction provided the proposed structure complies with all but lot area requirements, and

setback requirements shall be reduced without requirement for a variance to the extent of the width of the acquired property.

Whenever a structure becomes nonconforming as a result of county or state action other than an amendment to this ordinance, the use of the structure may continue and the structure may be replaced as though no nonconformity exists if, subsequent to such action, the structure is destroyed.

4.3.2. *Model Homes.* Dwelling units may be utilized for sales offices and/or model homes as long as two or more lots and/or dwelling units in the development have not undergone an initial sale or lease by the builder.

4.3.3. *Height Limits.* The zoning districts' maximum height limitations for structures shall not apply to the following:

A. Church spires and belfries

B. Water storage tanks

C. Cooling towers

D. Chimneys

E. Mechanical penthouses located on roofs

F. Smokestacks

G. Flag poles

H. Silos and grain elevators

I. Fire towers

J. Clock Towers

K. Architectural Elements such as cupolas, widow walks, etc.

Public and semi-public buildings (except as exempt in Section 4.3), hospitals and schools may be erected to 60 feet in height, and churches and temples may be erected to 75 feet in height. For each foot that said buildings exceed the height regulations of the district in which located, an additional foot of side and rear yard setbacks shall be required.

4.3.4. *Minimum building lines.* The minimum yards (setbacks) in each district shall establish minimum building lines for all structures except those named in Section 4.2.5 entitled, Uses and Structures Permitted in Yards, and Outside Storage.

A. *Multiple Frontage Lots.* Lots adjoining more than one public street shall provide a minimum front yard along each right-of-way except corner lots. The setbacks for the street-adjoining side yards of corner lots shall be as specified in the district regulations.

B. *Permitted Encroachments into Yards.* The following encroachments shall be allowed to the extent specified below.

1. *Non-residential.* Canopies shall be allowed over walkways or driveways to within 12 feet of the street right-of-way Fuel pumps and pump islands, when permitted, shall be set back as stated in this paragraph for canopies.

2. *Single-family Residential and Townhouses used for single-family on individual lots of record.*

Porches or decks attached to the main dwelling may extend no more than 10 feet into a minimum front or rear yard.

Outdoor fireplaces and outdoor uncovered kitchens, whether standalone or constructed as a part of a patio, retaining wall or other structure, may only be located in the rear yard and may extend no more than 10 feet into the minimum rear yard. In no case shall an outdoor fireplace be located closer than 10 feet to a property line.

Awnings may project to within 5 feet of a side lot line.

3. *All Zoning Districts.* Architectural features such as cornices, eaves, steps, gutters, fire chases, chimneys which are a part of an exterior wall of the primary structure, and fire escapes may not encroach or project over more than 36 inches into any minimum yard.

4. *Adjoining Railroads.* For those uses which utilize a rail siding for loading and unloading, there shall be no minimum rear yard requirement adjoining the siding.

C. *Flag Lots.* Minimum yards shall not be identified within the stem portion of a flag lot unless such portion, independent of the flag portion, can meet the requirements of 4.2.2. Measurements for a front yard setback shall begin at the point of intersection of the stem and the flag portion of a flag lot running along the property line the most perpendicular to the stem. A flag lot stem shall not be less than 15 feet in width.

4.3.5. *Encroachment on Public Rights-of-Way.* No privately owned structures other than driveways, access walkways, and mail boxes shall be permitted within a public right-of-way. Landscaping shall be allowed with permission of the Georgia Department of Transportation or as specified in the Tree Preservation Ordinance, as applicable. Signs and other structures belonging to the State of Georgia, Fulton County, the City of Johns Creek, or a railroad or utility are exempt from this provision.

Sec. 4.4. Large Scale Retail/Service Commercial Structures and Developments 75,000 Square Feet or Greater.

4.4.1. *Purpose and Intent.* "Large-scale retail" refers to any individual retail establishment that is 75,000 square feet or greater. This size threshold refers to an individual establishment and its associated areas used for display and storage.

The purpose of establishing requirements for large-scale retail establishments is to apply design standards and additional conditions to large developments proposed in the City of Johns Creek in order to ensure the development of appropriate, functional, well-planned, aesthetically pleasing retail/service commercial developments that stimulate economic and social growth, are integrated with surrounding areas, positively contribute to the changing community character, with facilities that have functional reuse potential in the future.

As such, these regulations intend to promote high quality materials and design, promote pedestrian-friendly environments, encourage infrastructure concurrency, encourage responsible storm-water management practices, and promote environmental planning policies.

The regulations are to be used in conjunction with the development criteria of the City of Johns Creek Zoning Ordinance and all other adopted development standards and criteria, including overlay district standards.

4.4.2. *Number, Size and Location Criteria.* Large scale retail establishments or developments cannot be accessed solely via collector or local roads, as defined by the City of Johns Creek guidelines and depicted on the Georgia DOT Road Functional Classification maps. They are solely permitted on sites with at least one frontage on an arterial road. However, the Director may waive the road classification criteria if the developer can demonstrate that the proposed road improvements, with identified funding sources, will accommodate projected traffic volume to be generated by the proposed development to the degree that the current LOS or better is maintained for the affected road segment.

No more than four large scale retail establishments, as defined in this ordinance, are allowed in a single development. Developments may include additional smaller retail structures as part of the overall development; however the number of retail establishments 75,000 square feet or larger is limited to four, and such developments are subject to the regulations outlined in this ordinance.

Developments are encouraged to create a cluster effect in order to achieve a village and/or town center effect. The ordinance promotes an appropriate mix of large and small scale retail with smaller retail buildings located closer to streets in order to reduce the visual scale of the development, encourage pedestrian traffic, and promote the use of architectural details.

The ordinance also recognizes the varied types of developments in the City of Johns Creek and promotes the use of screening and buffers in areas with a more rural aesthetic.

4.4.3. *Site Design Guidelines and Requirements.*

A. *General Site Guidelines.*

1. To the extent feasible, on-site creeks should be integrated into the site as amenities.
2. New construction shall conform to the existing topography as much as possible subject to approval by the Director of the Department of Community Development.
3. Buildings shall not be built on existing slopes greater than 33%. This condition may be amended as approved by the Director.
4. Where retaining walls are required, they must be faced with stone, brick or decorative concrete modular block. Use of landscape timber as exterior treatment in retaining walls is prohibited. Retaining walls above 5 feet shall have evergreen plantings in front or as approved by the Director.
5. Detention facilities are encouraged to be designed pursuant to the Alternative Design Standards described in the the City of Johns Creek 2003 Subdivision Regulations.
6. To the greatest extent practicable, design of a traditional detention facility shall follow the natural landforms around the perimeter of the basin.
1.

B. *Open Space.*

1. A minimum of ten percent (10%) of the site shall be landscaped open space.
2. Each retail development shall contribute to the establishment or enhancement of the community and public spaces by providing at least two community amenities such as patio/seating area, water feature, clock tower, pedestrian plazas and/or benches. Such features shall be constructed of materials that are the same or similar to those used for the principal buildings and landscape.
3. Square footage of community areas can be counted towards the minimum open space requirement.

C. *Screening and Fencing.*

1. Landscaping and fencing materials should be used to minimize visual and noise impact of parking, loading areas and accessory site features.
2. All loading areas shall be located to the rear or side of the building. Location should be restricted, however, to whichever location does not abut a residentially zoned property, if applicable. Loading areas shall be screened from view of any public street by a 5-foot

berm, a continuous row of evergreen hedges 5 foot in height at the time of planting, or architectural treatment.

3. Refuse areas and receptacles shall be placed in the least visible location from public streets and shall be enclosed on 3 sides with opaque walls. The 4th side shall be a self-closing gate with an architectural finish. Opaque walls shall be a minimum of twelve inches higher than the receptacle. Wall materials shall be noncombustible brick, stone, or split-faced concrete masonry.

4. Accessory site features, as defined in each zoning district of the Zoning Ordinance, shall be placed in the least visible location from public streets, and shall be screened from view of any right-of-way and/or any property zoned, used, or developed for residential uses, including the AG-1 zoning district, by one of the following means:

   (1) Placement behind the building;

   (2) 100% opaque fencing which must be constructed of the same type of exterior material used for the building; or

   (3) By a berm or vegetative screening. The screening shall consist of evergreen shrubs, be 3 ½ to 4 feet at time of planting, and reach a height of 6 feet within 2 years or planting.

5. Fencing materials along public streets and side yards are restricted to brick, stone, iron, decorative wrought iron, and treated wood, and or combinations of the above not resulting in an opaque fence.

6. Fences adjacent to a public street shall not exceed 55 inches from finished grade.

7. Chain link fencing, except as required along detention/retention ponds, is prohibited from public view. All chain link fencing shall be black vinyl clad.

8. Suburban Developments: All parking areas shall be screened from view of any public street by:

   (1) A 25 foot-wide landscape strip planted to buffer standards; or

   (2) A berm planted with a continuous hedge or evergreen shrubs. Plants shall be a minimum height of 3½ to 4 feet at time of planting, and such plants (or in the case of option 2 above, the berm and the planting combined) shall be capable of reaching a height of six feet within two years of planting.

D. *Outdoor Storage and Display.*

1. Display or sale of goods outside the permanent portions of a building is prohibited. Garden centers, and other similar areas, with permanent walls/fencing on the outside are considered permanent structures. Exceptions: Seasonal holiday trees, pumpkins, and open air fairs, provided an administrative permit is obtained, pursuant to Article 19.

2. Vending machines, paper stands and other similar devices must be located interior to the building structure.

E. *Buffer Standards.*

1. *Suburban Developments:*

   a. All developments shall provide a minimum 25-foot wide landscape strip along all public streets, if buildings within the development do not front the street.

   b. A minimum 100-foot wide natural, undisturbed buffer with a 10-foot improvement setback shall be provided along any interior property line adjacent to a residential zoning and/or use. This buffer shall be augmented with plantings if it does not achieve the intended visual screening.

c. To ensure that a visual buffer is achieved (for developments adjacent to a residential zoning and/or use), the City of Johns Creek may require the installation of a four-foot high earthen berm with plantings per the City of Johns Creek Buffer Standards. The City of Johns Creek Arborist will make the determination of a berm requirement based upon a review of the Landscape Plan and existing topography and vegetation.

d. A minimum 15-foot wide landscape strip shall be provided along any interior property line adjacent to a nonresidential zoning and/or use.

2. *Infill/Urban Developments:*

a. Developments are encouraged to place small retail storefronts on the public street.

b. If buildings do not front a public street, all properties shall provide a minimum 15 foot-wide landscape strip along all public streets. The fifteen (15) foot-wide strip shall be planted with minimum 2" caliper hardwood over-story trees every 30' feet.

c. A minimum 10-foot wide landscape strip shall be provided along any interior property line adjacent to a nonresidential zoning and/or use. This provision does not apply to individual lots within an overall development.

d. A minimum 25-foot wide natural, undisturbed buffer with a 10-foot improvement setback shall be provided along any interior property line adjacent to a residential zoning and/or use. This buffer shall be augmented with plantings if it does not achieve the intended visual screening.

F. *Landscaping.*

1. Specimen trees should be preserved to the extent possible.

2. Large overstory street trees in the landscape strips shall be planted in asymmetrical groupings at a minimum density of one tree per 30 feet of street frontage.

3. Street trees shall be a minimum of 2" caliper.

4. Street trees shall be selected from the list provided in Appendix E of the the City of Johns Creek Tree Preservation Ordinance and Administrative Guidelines or as may be approved by the the City of Johns Creek Arborist.

5. Street trees may be counted towards the required tree density for a site as approved by the the City of Johns Creek Arborist.

G. *Parking Lot Landscaping Islands.*

1. Parking lot landscaping shall follow the standards within the the City of Johns Creek Zoning Ordinance.

H. *Landscape Installation and Maintenance.*

1. Landscaping must be installed, or a landscape installation guaranty must be provided prior to the release of Certificate of Occupancy (CO), unless appropriate provisions are made to guarantee the installation of landscaping after such certificate is issued, such as approval by the Department of a bond for landscaping. The guaranty shall be stamped and signed by a registered landscape architect certifying that landscaping meets the standards of the the City of Johns Creek Tree Ordinance. Landscape plantings must be replaced if damaged or dead.

I. *Sidewalks and Pedestrian Circulation.*

1. Sidewalks or pedestrian paths are required along all public and private road frontages and may meander around existing trees subject to the approval of the the City of Johns Creek Arborist.

2. Pedestrian paths may be installed instead of sidewalks as approved by the Community Development Director.
3. Sidewalks shall be a minimum width of five feet.
4. Pedestrian paths shall be a minimum of 5 feet wide. They shall be made out of a hard surface material such as concrete, brick or pavers. Paths may be gravel or gravel dust as approved by the Community Development Director.
5. Sidewalks for all new projects should connect with existing walks, where applicable.
6. Pedestrian access should be provided to all entrances including access from rear parking areas.
7. Inter-parcel connectivity shall be required for multiuse, pedestrian paths and sidewalks.
8. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of color and durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

J. *Parking.*

1. Parking lots should be distributed around large buildings along not less than two facades (front, rear or sides) in order to shorten the distance to other buildings and public sidewalks.
2. A minimum of 50% of the required surface parking for out-parcels shall be located at the rear of the out-parcel building, interior to the overall development or facing the large retail parking lot.
3. No parking or loading area shall be used for the sale, repair, dismantling or servicing or storing of any vehicle, equipment, materials or supplies.
4. All developments must provide space for parking bicycles. This area may be within the parking lot or courtyard. A bike rack, permanently attached to the ground accommodating a bicycle lock or chain
5. Suburban Developments: Where feasible, no more than fifty (50) percent of the off-street parking area for the lot, tract or area of land devoted to the large retail establishment should be located along the property fronting a public road and between the front facade and the road.
6. Urban Developments: On-street parking is allowed subject to the approval of the Director.

K. *Architectural Standards.*

1. The design and layout of a development should build upon and complement the design of the surrounding community. The size, orientation, setback and scale of buildings are integral elements of communities. A building's orientation and placement should complement and relate to adjacent buildings, structures and properties.
2. The location of a building should take into consideration its surrounding and take advantage of opportunities to maintain open views and spaces. Buildings should be in proportion, in scale and characteristic to their natural setting. The building design and material should contribute to the style and surrounding areas. Building design that is based on a standardized formula associated with a business or franchise shall be modified to meet the provisions of this section.
3. Buildings shall include architecture elements such as columns, arcades, covered entry-walkways, arches, facade offsets, windows, balconies, recesses/projections, clock towers, cupolas and/or courtyards.

L. *Orientation.*

1. All buildings shall be oriented to a public street. An entrance to a building should be located on the side of the building facing a public street.
2. Small retail stores as part of an overall development should be oriented to a public street; with the larger retail buildings in the rear.
3. Principal buildings should have articulated building entryways with greater architectural details, to include a minimum of two of the following elements:
   a. Decorative columns or posts
   b. Pediments
   c. Arches
   d. Brackets
   e. Transoms over doorways
   f. Sidelights
   g. Porticos

M. *Height.*

1. There shall be a maximum height limit of two stories with the maximum height 35 feet from average-finished grade to the bottom of the roof eave.
2. Urban/Infill Developments: Three story buildings with a height limit of 50 feet from average-finished grade to the bottom of the roof eave are permitted.

N. *Scale.*

1. For every one hundred feet of building length on a single face, visible from the public street, there shall be variation in the exterior. This exterior variation shall be accomplished through the following means:
   a. For each one hundred feet of building exterior wall, the building exterior and roof shall be offset.
   b. For each one hundred feet of building exterior wall, there shall be a change in details, or patterns or materials.

O. *Building Material.*

1. The exterior wall materials of all buildings shall consist of a minimum of 60% (per vertical wall plane) of the following: brick, stone, stucco, EIFS, solid plank, cementitious plank, or horizontal clapboard siding.
2. Accent wall materials on buildings shall consist of glass, architecturally treated concrete masonry, stone, EIFS, or stucco and shall not exceed 40% per vertical wall plane.
3. Prohibited exterior building facade materials are: metal panel systems, precast, smooth concrete masonry or plain, reinforced concrete slabs, aluminum or vinyl siding, plywood, mirrored glass, press-wood or corrugated steel (exceptions: mechanical penthouses & roof screens).
4. To the extent any rear or side of any building is adjacent to a public street or single-family residence, architectural treatment shall continue through the rear or side.

P. *Colors.*

1. Permitted colors for exterior walls, building components, sign structures, accent and decorative elements shall be a specified by the permitted colors listed in Section 12E.3.D.
2. If large scale retail establishment or development is not located in an overlay district, all aspects of a development should use colors common in the area and in nature. Earth-toned, subtle and muted colors provide for a development that incorporates sensitivity to its natural surroundings. High intensity colors shall be avoided.

Q. *Roof.*

1. Permissible roofs types are flat, gable, pyramidal, and hip. Shed roofs are permitted over porches, additions, and accessory structures.
2. Roof pitches shall be in the range of 4 over 12 to 12 over 12.
3. Roof pitch material shall be made out of the following materials: asphalt shingle, wood shingle, wood shake, standing seam metal, or materials designed to give the appearance of the above mentioned materials.
4. A decorative parapet or cornice shall be constructed along all roof lines with a lower pitch than specified in above.
5. Flat roofs and roof-mounted equipment shall be screened from the view of public and private streets by a parapet. No parapet shall be required to be greater than 4 feet above roof.

R. *Additional Requirements.*

1. Burglar bars, steel gates, and steel-roll down curtains are prohibited on the exterior and interior of the structure except at the structure's rear. Steel roll down curtains may be located in other areas if not visible from the front of a building or from a public street.
2. Neon lights outlining and/or detailing building features are prohibited.
3. Where additional stores will be located in a large retail establishment, each such store that is 5,000 square feet and greater shall have at least one (1) exterior customer entrance, which shall conform to the above requirements.

4.4.4. *Adaptive Reuse of Properties and Store Closure.* If an establishment remains empty for a period of 12 consecutive months the owner and/or lessee must work with Fulton County Economic Development Department to create a plan for the removal or adaptive re-use of the principal structure.

4.4.5. *Vacancy Maintenance Requirements.*

1. Owner shall provide security patrols on the site to deter vandalism or other illegal activities on the property.
2. Retail establishments that have been closed should be maintained at the standard of the occupied store, prior to store closure, this includes all parking lot surfaces and landscaping.
3. Building fenestration, including doors and windows cannot be boarded up.

Sec. 4.5. Accessory Uses and Structures.

4.5.1. *Construction of Accessories.* Accessory structures shall be constructed concurrently with or subsequent to a principal structure.

4.5.2. *Regulations Applicable to Selected Accessory Uses and Structures.* The following accessory uses and structures shall be restricted as stated herein.

A greenhouse accessory to a residential use shall be limited in size to one-third of the floor area of the principal dwelling.

4.5.3. *Amateur Radio Antennas.* This provision shall apply to all amateur radio antennas except those that exceed the maximum height of the district in which they are located (19.3.1(1) and 19.4.5). Amateur radio antennas are accessory structures when erected on a residential lot in association with a residential use and must meet all accessory structure requirements for the District in which the amateur radio antenna is located except that principal structure height requirements shall control. Amateur radio antennas and minor antennas which are located on roofs shall be located only on that portion of the roof most closely associated with yard(s) for which accessory structures are allowed. In addition, an amateur radio antenna shall be designed such that the entire structure (excepting the principal building if the amateur radio antenna is located on the roof) will remain on the property or within a fall easement if it should fall. Notwithstanding the foregoing, roof-mounted and building-mounted wireless telecommunications facilities are not allowed as an accessory use or as a principal use in a residential, NUP, or AG-1 district (except for properties zoned AG-1 with an existing institutional use).

(Ord. No. 2013-04-10, § 2, 7-22-2013)

Sec. 4.6. Refuse Areas.

Refuse areas shall be identified on site plans for lots improved with structures other than single-family dwellings, and such areas shall be screened to one-hundred percent opacity with fences or walls, or a vegetative screen which complies with the screening requirements of the Tree Protection Ordinance. The refuse containers located therein shall not be visible from streets or adjoining properties. Vegetative screens must comply with the provisions of Section 4.23. Refuse areas shall not be located in required landscape areas, required buffers, required parking areas, or required loading areas.

Sec. 4.7. Reserved.

Sec. 4.8. Animals.

This section shall apply to animals other than animals associated with farming as a principal or accessory use.

4.8.1. *Horses.* (See AG-1 District for standards therein.) One horse or other member of the horse (equine) family per fenced acre shall be allowed in association with a single-family dwelling or in single-family dwelling districts. All structures for the shelter of horses in all districts except the AG-1 District shall be:

A. At least 100 feet from the lot line of any residentially zoned or used property.

B. Located within the rear yard.

Sec. 4.9. Night Sky Ordinance.

4.9.1. *Purpose and Intent.* The purpose and intent of this ordinance is to provide a regulatory strategy for outdoor lighting that will permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment and commerce; curtail and reverse the degradation of the nighttime visual environment and the night sky; preserve the dark night sky for astronomy; minimize glare, obtrusive light and artificial sky glow by limiting outdoor lighting that is misdirected, excessive or unnecessary; conserve energy and resources to the greatest extent possible; and help to protect the natural environment from the damaging effects of night lighting from man-made sources.

4.9.2. *Conformance with Applicable Codes.* All outdoor illuminating devices shall be installed in conformance with the provisions of this ordinance, the Building Code and the Electrical Code as applicable and under appropriate permit and inspection. Where there is conflict between the provisions of this ordinance and other regulations, the most restrictive provision shall prevail.

4.9.3. *Applicability.* For all land uses, developments and buildings that require a permit, all outdoor lighting fixtures shall meet the requirements of this ordinance. All building additions or modifications of twenty-five (25) percent or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision, shall invoke the requirements of this ordinance for the entire property, including previously installed and any new outdoor lighting. Cumulative modification or replacement of outdoor lighting constituting sixty (60) percent or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, shall constitute a major addition for purposes of this section.

A. *Minor Additions.* Additions or modifications of less than twenty-five (25) percent to existing uses, as defined in Section (a) above, and that require a permit, shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site shall meet the requirements of this ordinance with regard to shielding and lamp type.

B. *Exempt Lighting.* The following luminaries and lighting systems are exempt from these requirements:

1. Lighting for pools used at night.
2. Underwater lighting used for the illumination of swimming pools and fountains;
3. Temporary holiday lighting;
4. Lighting required and regulated by the Federal Aviation Administration, or other federal, state or local agency;
5. Emergency lighting used by police, fire, or medical personnel, or at their direction;
6. All outdoor light fixtures producing light directly from the combustion of fossil fuels, such as kerosene and gasoline;
7. Security lighting controlled and activated by a motion sensor device for a duration of 10 minutes or less.
8. Series, lines or rows of lights for outdoor dining, provided that no building elements are outlined.

C. *Prohibited Lighting.* The following lighting systems are prohibited:

1. Aerial lasers;
2. Searchlight style lights;
3. Other very intense lighting, defined as having a light source exceeding 200,000 lumens or intensity in any direction of 2 million candelas or more;
4. Mercury vapor lamps;
5. Exposed neon lighting;
6. Sodium vapor luminaries (yellow light);
7. Promotional beacons;
8. Laser source lights, strobe lights or any similar light when projected about the horizon;
9. Out-of-season colored lighting (for example: Christmas lights);

10. Flashing, changeable message or reader boards;
11. Exposed tube lighting;
12. Lighting outlining building elements such as a roof, archway, doorway or window;
13. Lighting used for causing sky glow to attract attention in excess of the lighting used to provide safety, security and utility;

(Ord. No. 2014-06-23, 6-16-2014)

4.9.4. *Outdoor Lighting Standards.* All nonexempt outdoor lighting fixtures shall meet the following criteria:

A. Shall be full cutoff placed so as to allow no light above the horizontal as measured at the luminaire, except as herein noted in this ordinance (as in the case of period fixtures, cutoff fixtures may be used).

B. Shall be located, aimed or shielded to allow light trespass (spill light) at a residential or nature preserve property line not to exceed 0.1 foot-candles vertical at 3 feet above grade. Light trespass at other property lines shall not exceed 0.5 foot-candles vertical at 3 feet above grade in accordance with the following standards:

At Property Lines Including Rights-of-Way	Maximum Foot-candles
At property line abutting a residential or an agricultural use	1.0
At property line abutting an office or institutional use	1.5
At property line abutting a commercial or industrial use	1.5

Off-Street Parking Lots	Minimum Foot-candles	Average Foot-candles	Maximum Foot-candles
Residential areas	0.5	2.0	4.0
Office-professional areas	1.0	3.0	6.0
Commercial areas	2.0	6.0	12.0
Light industrial areas	1.0	4.0	8.0

C. Flood or spot lamps must be positioned no higher than 45 degrees above straight down (half-way between the vertical and the horizontal) when the source is visible from any off-site residential property or public roadway.

D. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as described herein for fully shielded fixtures.

E. Multi use development lighting must conform to the standards of its respective use.

F. Illumination levels are measured from any height and orientation of the measuring device at any location along the property line, except the lighting of parking lots shall be measured at grade with the meter sensor held horizontally on the surface.

4.9.5. *Special Uses.* All lighting not directly associated with the special use areas designated below shall conform to the lighting standards described in this ordinance.

A. *Outdoor Sports, Recreation Fields, or Performance Areas.* Lighting of outdoor recreational facilities (public or private), such as, but not limited to, outdoor athletic fields, courts, tracks, special event or show areas shall meet the following requirements:

1. Facilities designed for municipal leagues, elementary to high school levels of play and training fields for recreational or social levels of play, college play, semi-professional, professional or national levels of play shall utilize luminaries with minimal uplight consistent with the illumination constraints of the design. Where fully shielded fixtures are not utilized, acceptable luminaries shall include those which:

   a. Are provided with internal and/or external glare control louvers or lenses, and are installed so as to minimize uplight and offsite light trespass and glare; and

   b. Are installed and maintained so as to avoid aiming no more than 2.5 times the mounting height.

2. *Illuminance.* All lighting installations shall be designed to achieve the illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA RP-6).

3. *Off-Site Spill.* The installation shall also limit off-site spill (off the parcel containing the sports facility) to the maximum extent possible consistent with the illumination constraints of the design. For all recreational or social levels of play and training fields, as well as, performance areas, illumination levels shall not exceed 1.5 foot-candles at any location along any non-residential property line, and 0.5 foot-candles at any location along any residential property line.

4. *Curfew.* All events shall be scheduled so as to complete all activity no later than 10:30 p.m. Illumination of the playing field, court or track shall be permitted after the curfew only to conclude a scheduled event that was unable to conclude before the curfew due to unusual circumstances. Field lighting for these facilities shall be turned off within 30 minutes after the last event of the night.

5. *Setback.* All light poles shall be set back the greater of fifty feet or one foot for every foot in height from any residential property line or right-of-way.

6. This Section 4.9.5 shall not be construed to overrule any standards established in any Overlay Improvement District or as established in Section 19.4

B. *Service Station Canopies and Parking Structures.*

1. All luminaries mounted on or recessed into the lower surface of service station canopies and parking structures shall be fully shielded and utilize flat lenses.

2. The total light output of luminaries mounted on the lower surface, or recessed into the lower surface of the canopy, and any lighting within signage or illuminated panels over the pumps, shall not exceed 50 foot-candles.
3. The total light output of illuminated areas of a service station other than as detailed in 2. above shall not exceed 15 foot-candles.
4. Illuminance levels for the interior of parking structures, where interior lighting is visible from outside the structure, shall conform to the IESNA recommendation (RP-20).
5. Lights shall not be mounted on the top or sides of a canopy and the sides of a canopy shall not be illuminated.

C. *Security Lighting.*

1. Security lighting shall be directed toward the targeted area.
2. Sensor activated lighting must be located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and the light shall not be triggered by activity off the property.

D. *Pedestrian Path Lighting.*

1. Lighting post shall not exceed 16 feet from the finished grade.

E. *Architectural Accent Lighting.*

1. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping, or art shall be located, aimed and shielded so that light is directed only on those features. Such fixtures shall be aimed or shielded to minimize light spill into the dark night sky in conformance with the luminaire standards.
2. Lighting fixtures shall not generate glare, or direct light beyond the facade onto a neighboring property, streets or into the night sky.

F. *Temporary Lighting Permits.*

1. Permits for temporary lighting will be granted by the Department if the total output from the luminaries does not exceed 50 foot-candles and the following conditions apply:
   a. The purpose for which the lighting is proposed can be completed within thirty (30) days, except that the permit for a major construction project may extend to completion.
   b. The proposed lighting is designed in such a manner as to minimize light trespass and glare.
   c. Permits issued for temporary recreational lighting shall be extinguished by 10:30 p.m.
2. The application for the Temporary Lighting Permit shall include, but not be limited to, the following information:
   a. Name and address of applicant and property owner;
   b. Location of proposed luminaire(s);
   c. Date and times for the lighting;
   d. Type, wattage and lumen output of lamp(s);
   e. Type and shielding of proposed luminaires;
   f. Intended use of the lighting;
   g. Duration of time for requested exemption;

h. The nature of the exemption; and

i. The means to minimize light trespass and glare.

G. *Commercial Parking Areas.*

1. All lighting fixtures servicing parking lots, except floodlights, shall be cutoff fixtures, directed downward and not toward buildings or other areas.

2. The minimum illumination level for a parking lot shall be 0.4 foot-candles at grade level and the ratio of the average illumination to the minimum illumination shall not exceed 4:1.

3. Floodlights should be aimed or shielded to minimize uplight.

4. Light poles used in parking lots shall not exceed 35 feet in height.

H. *Street Lights.*

1. All street light fixtures new, repaired (outside of normal maintenance) or replaced fixtures shall be cutoff.

4.9.6. *Variances.*

A. An application may be submitted to the Board of Zoning Appeals for a variance from the provisions of this ordinance. The application should include, but not be limited to, evidence about the following:

1. How the proposed design and appearance of the luminaire are superior;

2. How light trespass and glare will be limited;

3. How the proposed solution will provide a benefit without negative impact on the health, safety, or welfare of the community.

B. The application may include the recommended practices of the Illuminating Engineering Society of North America, a professional engineer, or other authority on outdoor lighting.

4.9.7. *Submission of Plans and Evidence of Compliance.* The applicant for any permit required by any provision of the laws of the City of Johns Creek in connection with proposed work involving outdoor lighting fixtures shall submit, as part of the application for permit, evidence that the proposed work will comply with this ordinance. Even should no other such permit be required, the installation or modification, except for routine servicing and same-type lamp replacement of any exterior lighting, shall require submission of the information described below. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part or in addition to the information required elsewhere in the laws of the City of Johns Creek upon application for the required permit:

A. Plans indicating the location on the premises of each illuminating device, both proposed and any already existing on the site.

B. Description of all illuminating devices, fixtures, lamps, supports, reflectors, both proposed and existing. The description may include, but is not limited to catalog cuts and illustrations by manufacturers.

C. Photometric data, such as that furnished by manufacturers or similar, showing the angle of cut off of light emissions.

Additional Submission. The above required plans, descriptions and data shall be sufficiently complete to enable the Department to readily determine whether compliance with the requirements of this ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

Subdivision Plats. All new subdivided properties shall submit information as described herein for installed street lights and other common or public area outdoor lighting.

Certification. For all projects, certification that the lighting as installed, conforms to the approved plans shall be provided by an illumination engineer/professional before the Certificate of Occupancy is issued. Until this certification is submitted, approval for use by the issuance of the Certificate of Occupancy shall not be issued.

Sec. 4.10. Architectural Treatment of Common Aggregate Block.

Whenever visible from a public street in all except the AG-1 and industrial districts, and whenever adjoining a residential zoning district in all districts, the exterior of all common aggregate blocks shall be provided with an architectural treatment such as stucco, stone, brick, wood or an alternate treatment approved by the Director of the Community Development Department. Split rib and marble aggregate block shall not be deemed to be common aggregate block.

Sec. 4.11. Fences and Walls.

Fences and walls which conform to the provisions stated herein shall be permitted by the Community Development Department. Fences erected for agricultural purposes in the AG-1 District shall be exempt from permit requirements.

A. *Visibility Triangle.* Fences, walls and vegetative materials used in association therewith must not obstruct the minimum sight distance requirements which are specified in the City of Johns Creek Development Regulations administered by the Director of the Community Development Department.

B. *Gates.* No part of an automobile gate shall be located within 20 feet of a public right-of-way, nor shall any gate or vehicle in any way obstruct a public right-of-way or the minimum sight distance specified in the Development Regulations regardless of whether open, closed or in an intermediate position.

C. *Maintenance of Required Landscape Areas.* Landscape areas or strips required pursuant to this section shall be maintained in accordance with the requirements of the Tree Preservation Ordinance.

D. *Fence and Wall Materials.* The following standards shall apply to fences and walls.

1. *Adjoining Right-of-Way.* In all single-family detached dwelling developments, wire and plastic fencing materials, including chain-link fencing with plastic or wooden inserts shall not be used adjoining a street right-of-way. The architectural treatment of poured concrete, common aggregate block or concrete block walls shall be approved by the Director of the Community Development Department. This provision shall not preclude the use of chain link fencing as a security fence around storm water facilities. See Article 12E.3.B, Development Standards for Screening.

2. *Fences Along All Property Lines.* Walls and fences constructed along all property lines shall be constructed with a finished side toward the neighboring property.

3. *Barbed Wire.* Barbed wire may be used in the AG-1 District as long as its use is associated with a legitimate agricultural pursuit. Barbed wire shall not be approved for any single-family dwelling lots including such lots which are located in the AG-1 District. Barbed wire may be used for security strands in all but single-family dwelling districts at a height of at least 6 feet above grade.

4. *Minimum Landscape Requirements.* A minimum three-foot landscape strip shall be provided between a fence or wall and a public right-of-way.

5. Where the Zoning Ordinance or zoning conditions require fences and walls to be solid/opaque, the visual density of the fence shall be such that it cannot be seen through.

E. *Height.* Fences and walls shall not exceed a height of eight feet from grade in residential districts. Column and ornament heights are permitted to exceed the maximum fence/wall height up to 3 feet.

F. *Setback.* Fences and walls shall be set back a minimum of 3 feet from a public right-of-way.

Sec. 4.12. Home Occupation.

A home occupation is permitted as an accessory use of a dwelling unit in any zoning district and its operation and employees are limited to members of the resident family only. The following are limitations on home occupations:

A. The smaller of 25% or 750 square feet of the gross floor area of a dwelling unit may be used for activities devoted to the home occupation.

B. Accessory buildings and structures may not be used for the home occupation.

C. There shall be no signs identifying the home occupation, nor shall there be any storage, display or activity associated with the home occupation visible outside the structure.

D. Said uses are excluded: auto repair, maintenance or similar operations, auto sales, restaurants, keeping of animals, funeral homes, retail or wholesale shops, motel type establishments, taxi services, or any other occupation found incompatible with the intent of this ordinance.

E. Resident participants in a home occupation must have the appropriate occupational licensing, including business licenses.

F. No Home Occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive.

G. No more than two clients or patrons are allowed on the premises at the same time in conjunction with the home occupation (except for persons in care at a Family Day Care Homes, where no more than six clients are allowed).

H. Vehicles kept on site in association with the home occupation shall be used by residents only.

I. The transporting of goods by truck is prohibited. Incoming vehicles related to the home occupation shall be parked off-street within the confines of the residential driveway or other on-site permitted parking.

J. Home occupations must exclude the use of instruments, machinery or equipment that emit sounds (i.e. musical instruments, sewing machines, saws, drills) that are detectable beyond the unit.

K. Family Day Care Homes are prohibited within multi-family dwelling units.

L. Family Day Care Homes shall provide outdoor play areas as required by Georgia law, but such areas shall be limited to side or rear yards outside the minimum yard area, and shall not occupy any yard adjoining a street.

M. Family Day Care Home shall be located at least 1,000 feet in all directions from any other such use operated as a Home Occupation.

N. Family Day Care Home hours of operation shall be limited to Monday through Saturday from six A.M. to seven P.M.

O. Family Day Care Home operators shall have a current, certified copy of the operator's State of Georgia Family Day Care Home registration which shall be filed with the business license application and renewals.

P. No home occupation shall be operated so as to create or cause a nuisance.

Sec. 4.13. Outparcel Development.

Outparcel development permitted as a condition of zoning approval and identified on a Site Plan shall comply with the following standards.

A. The total floor area for outparcels shall be included in the total floor area allowed for the larger parcel.

B. Access for outparcels shall be from internal drives with no direct access to public roads.

C. Each outparcel abutting a public right-of-way shall have a minimum of 200 feet of frontage on that public right-of-way.

D. Internal entrance drives shall be located at least 100 feet from any publicly dedicated right-of-way.

Sec. 4.14. Reserved.

Sec. 4.15. Noise.

The City of Johns Creek Site Acceptability Noise Standards shall apply to all new proposed residential and special uses described herein.

The City of Johns Creek Site Acceptability Noise Standards*

Noise Classification	**Day-Night Average Sound Levels (in Decibels)**;rr;	**Requirements and Restrictions**
Acceptable	Not exceeding 65 dBA	1. Noise Study Report per Article 28.4.6. No Restrictions.
Normally Unacceptable	Above 65 dBA but not exceeding 75 dBA	1. Noise Study Report per Article 28.4.6. 2. Sound Attenuation Plan.
Unacceptable	Above 75 dBA	1. Noise Study Report per Article 28.4.6. 2. Residentially zoned/used developments are prohibited.
*Reference: Title 24, Housing & Urban Development, Part 51 - Environmental Criteria and Standards, Subpart B - Noise Abatement and Control, Section 51.103 Criteria and Standards (c) Exterior standards.		

1. Open.

2. No residential dwelling shall be occupied if the interior day-night average sound level is 50 dBA or higher.

3. Any existing legal residential lot of record that does not change use or zoning classification is exempt from the requirements of this Section.

Sec. 4.16. Landfills, Transfer Stations, Quarries and/or Surface Mining Sites.

1. No portion of a new proposed residentially zoned or used property shall be located within a one (1) mile radius of the property lines of an existing active landfill.
2 No portion of a new proposed residentially zoned or used property shall be located within a one (1) mile radius of the property lines of an existing active transfer station.
3 No portion of a new proposed residentially zoned or used property shall be located within a 1.5 mile radius of the property lines of an existing active quarry.
4. No portion of a new proposed residentially zoned or used property shall be located within a 500 foot radius of the property lines of an existing active surface mining site. Surface mining is defined as specified in O.C.G.A 12-472.
5. Any existing legal residential lot of record located within the radius requirements of Sections 4.16.1, 4.16.2, 14.16.3 and 14.16.4 that does not change use or zoning classification is exempt from the requirements of this Section.
6. Reference maps titled "2005Z-0108 Environmental Standards for Unincorporated North Fulton" located in the City of Johns Creek GIS Map Catalog for locations of active landfills, transfer stations, quarries and surface mining sites.
7. Any owner of property located within a one (1) mile radius of the property lines of an existing active landfill or existing active transfer station or within a 1.5 mile radius of the property line of an existing active quarry, shall, prior to the sale or transfer of said property, notify and disclose in writing the existence of the landfill, transfer station, or quarry to the potential owner or transferee.

Secs. 4.17—4.22. Reserved.

Sec. 4.23. Zoning Buffers and Landscape Strips.

4.23.1. *Minimum Zoning Buffers.*

A. Minimum Zoning Buffers. Unless otherwise specified, lots developed with single-family detached dwelling units are not required to provide landscape areas or zoning buffers.

B. Properties adjacent to properties zoned MIX with residential components, AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R5-A, R-6, TR, A, A-L, NUP, and CUP and adjacent to all single-family residential uses in all zoning districts shall have zoning buffers as specified in Table 4.23.1

C. Zoning buffers shall be undisturbed except for approved access and utility crossings and replanting's as required by the City of Johns Creek Arborist.

D. An additional setback of ten feet for all improvements shall be interior to all zoning buffers as specified in Table 4.23.1. No reduction of the ten foot improvement setback is allowed nor shall any grading or land disturbance or tree clearing be allowed within this improvement setback unless permission is obtained from the Director of the Department of Community Development through an Administrative Variance pursuant to Section 22.4. Said approval shall include a site visit report and recommendation by the City of Johns Creek Arborist.

E. Fences and/or walls shall be located interior to any required buffers and/or improvement setbacks except that when zoning buffers are required between properties zoned for single-

family residences or developed with single-family residences, fences may be constructed along side and rear lot lines.

F. When minimum landscape areas or zoning buffers for uses in existing structures do not meet the requirements herein, conditions of zoning shall apply. Whenever deemed necessary to protect adjoining or nearby properties or to otherwise promote the public health, safety or welfare, the Mayor and City Council may specify conditions which require increased landscape strips and/or buffers, setbacks, berms, or other treatments to protect surrounding and nearby properties.

Table 4.23.1

New Project	**Buffers**			**Improvement Setback**
	Side	**Rear**	**All Road Frontages**	
AG-1 (*)	25	50		10
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5, A, R-6, NUP, CUP (*)	25	50		10
TR	25	40		10
A	25	50		10
A-L	25	50		10
MHP	50	50	100	10
MIX	25	50		10
O-I	25	50		10
C-1	25	50		10
C-2	35	75		10
M-1A	50	100		10
M-1	50	100		10

(*) Nonresidential (single-family detached) uses only. Applies to all districts listed.

4.23.2. Minimum Landscape Strips

A. Landscape Strips along Rights-of-Way

1. A minimum 40-foot wide landscape strip shall be provided from the existing right-of-way, or the proposed right-of-way, if a future right-of-way is proposed by the Department of Public Works along Georgia Highway 141 (a.k.a. Medlock Bridge Road), Highway 120 (including the portion of Kimball Bridge Road and Abbotts Bridge Road), McGinnis Ferry Road and Old Alabama Road.

2. A minimum 30-foot wide landscape strip shall be provided from the existing right-of-way, or the proposed right-of-way, if a future right-of-way is proposed by the Department of Public Works along State Bridge Road, Jones Bridge Road, Haynes Bridge Road, Nesbit Ferry Road, and Kimball Bridge Road (the portion not designated as part of Highway 120).

3. A minimum 25-foot wide landscape strip shall be provided from the existing right-of-way, or the proposed right-of-way, if a future right-of-way is proposed by the Department of Public Works along all other public streets when Article 4 of the Zoning Ordinance otherwise specifies a smaller landscape strip.

4, Standards 1, 2, and 3 of this section also apply to the exterior road frontage of all single-family developments.

B. Landscape Strips along all other lot lines.

1. Unless otherwise specified, lots developed with single-family detached dwelling units are not required to provide landscape areas or zoning buffers.

2. A minimum 10-foot wide landscape strip on both sides of the property line shall be provided along any interior property line adjacent to a nonresidential zoning and/or uses (this standard shall not preclude inter-parcel access). The Director may adjust the width and location of the landscape strips, provided an equal number of required trees are provided.

4.23.3.*Parking lot landscaping.* At-grade, non-single-family parking lots shall provide minimum 10-foot wide landscape islands at the end of each parking bay, and a 10-foot wide landscape island every 6th parking space. Such landscape islands shall include minimum 2" caliper shade trees from the City of Johns Creek's list of recommended shade trees for parking lots. Refer to the City of Johns Creek Tree Preservation Ordinance, Appendix K . Landscaping in these islands should preserve and maintain adequate sight lines from the minor lane to the major lane. Alternate methods of landscaping parking lots may be approved whenever the Director of Community Development or his/her designee determines that the alternate method equals or exceeds this standard.

4.23.4.*Maintenance of required landscaping.* Trees and landscaping installed in required landscape strips and parking lot islands shall be maintained and appropriate pruning and healthy tree management shall be allowed in accordance with ANSI A300. Tree-topping shall be prohibited; and trees removed or their tops cut shall be replaced with the equivalent inches of removed trees.

With appropriate written findings by a certified arborist, diseased or insect-infested trees may be removed subject to approval of the Community Development Director. Any trees removed due to disease or insect infestation shall be replaced in accordance with the minimum standards of the Tree Preservation Ordinance.

Sec. 4.24. Reserved.

Sec. 4.25. Property Number/Street Address.

Property numbers issued by the City of Johns Creek Community Development Department shall be posted so as to be clearly visible from the street for which the property number was assigned.

Sec. 4.26. Inclusionary Housing Zoning.

4.26.1. *Purpose and Intent.* This section of the City of Johns Creek Zoning Ordinance is intended to provide that residential projects in the City of Johns Creek contain a defined percentage of housing affordable to very low, low, and moderate income households; to provide for a program of incentives and local public subsidy to assist in this effort; and to implement the mixed income and housing policies of the Housing and Implementation Elements of the City of Johns Creek's Comprehensive Plan. Participation in the Inclusionary Housing Zoning Program shall be voluntary for a twenty-four

month period after which it will sunset until the Mayor and City Council can assess the effectiveness of the program and determine the conditions for its future implementation.

The Ordinance seeks to:

(a) Provide for a full range of housing choices, conveniently located in a suitable living environment, for all incomes, ages and family sizes;

(b) Provide housing to meet the existing and anticipated future needs of very low, low and moderate-income households;

(c) Assure that affordable housing units are dispersed throughout the County by providing such units in all residential developments, except as otherwise may be provided for in this Article;

(d) Encourage the construction of affordable housing by allowing increases in density to offset land and development costs;

(e) Ensure that developers incur no loss or penalty and have reasonable prospects of realizing a profit on affordable housing units by virtue of the density bonus and other incentive provisions herein.

4.26.2. *Definitions.*

Affordable. Rented at an Affordable Rent or sold at an Affordable Housing Price.

Affordable Housing Price. A sales price, at which Low, Very Low, or Moderate Income Households, as provided in this Section, can qualify for the purchase of for-sale Inclusionary Units, based on designated income standards. For purposes of this calculation, housing expenses shall include mortgage principal and interest, taxes, insurance, and assessments.

Affordable Rent.

(1) For a unit whose occupancy is restricted to a Low Income Household that the monthly rent consists of a maximum of one-twelfth of thirty percent (30%) of eighty percent (80%) of the median income applicable to the City of Johns Creek; and

(2) For a unit whose occupancy is restricted to a Very Low Income Household that the monthly rent consists of a maximum of one-twelfth of thirty percent (30%) of fifty percent (50%) of the median income applicable to the City of Johns Creek. In each case, the median income applicable to the City of Johns Creek is as determined annually by the United States Department of Housing and Urban Development, adjusted for household size, less a reasonable allowance for utilities and in compliance with the Low Income Housing Tax Credit Program administered by the Georgia Department of Community Affairs.

Affordable Rental Agreement. Legal restrictions by which the rents for rental Inclusionary Units will be controlled to ensure that rents remain Affordable for a period of thirty (30) years or longer.

Bond Financed Projects. Affordable housing developments financed with tax-exempt bonds and therefore eligible for 4% federal credits.

City of Johns Creek Government. City of Johns Creek, Georgia.

Density Bonus. A minimum density increase of at least twenty percent (20%) over the otherwise maximum residential density as permitted by the City of Johns Creek Zoning Ordinance and the Comprehensive Land Use Plan at the time of application.

Developer. Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks City of Johns Creek's approvals for all or part of a Development Project. Developer includes Owner.

Development Agreement. An agreement entered into between the City of Johns Creek and a Developer.

Development Project. Any real-estate development project that includes Market Rate Units and is required to provide an Inclusionary Housing Component pursuant to the provisions of this Section. Projects at One Location undertaken in phases, stages or otherwise developed in distinct sections shall be considered a single Development Project for purposes of this Section.

Dwelling Unit. A residential unit within a Development Project.

External Subsidy. Any source of funds that is not Local Public Funding, including Federal or state grants, loans, bond funds, tax credits or other tax-based subsidy.

First-time Home buyer. An individual purchaser or spouse who has not owned a home during the past three years, or that the purchaser meets at least one of the following criteria:

A. The purchaser is a displaced homemaker, defined as a person who has not worked full-time for a number of years, worked primarily without remuneration to care for the home and family, is unemployed or underemployed, is experiencing difficulty in obtaining or upgrading employment, and, while a homemaker, owned a home with a previous spouse;

B. The purchaser is single (unmarried or legally separated), has one or more minor children of whom purchaser has custody, and, while previously married, owned a home with a previous spouse; or

C. The purchaser owns or owned as a principal residence during the past three years, a dwelling unit which structure is not permanently affixed to a permanent foundation in accordance with the City of Johns Creek's Zoning Ordinance, or is not and cannot be brought into compliance with the City of Johns Creek's Zoning Ordinance for less than the cost of replacing the structure.

Household. One person living alone or two or more persons sharing residency whose income is considered for housing payments.

Household Income. The combined adjusted gross income for all adult persons residing in a living unit.

Household, Low Income. A household whose annual income does not exceed eighty (80) percent of the area median income, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Household, Moderate Income. A household whose annual income does not exceed one hundred and twenty (120) percent of the area median income, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Household, Very Low Income. A household whose income does not exceed fifty (50) percent of the area median income, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Housing Trust Fund. The fund created by the City of Johns Creek and administered by the City of Johns Creek Office of Housing (FCOH).

Inclusionary Housing Agreement or Agreement. The agreement between a Developer and the County setting forth the manner in which the Inclusionary Housing Component will be met in the Development Project.

Inclusionary Housing Plan. A plan required at the time of concept review for a land disturbance permit or building permit that provides the details of proposed inclusionary units.

Inclusionary Housing Component. The provision of the Inclusionary Housing Units in a Development Project.

Inclusionary Housing Unit or Inclusionary Unit. An ownership or rental dwelling unit developed as a part of the Inclusionary Housing Component of a Development Project as provided in this Section.

Inclusionary Housing Development. A development containing a building with more than eight (8) units for multi-family or for all residential developments of 20 units or more in which 10 percent of the total units must be inclusionary units restricted for occupancy by very low, low, or moderate income households except as otherwise provided for herein.

Inclusionary Incentives. The fee waivers or reductions, planning and building standards waivers or reductions, regulatory incentives or concessions, and Federal, State, and Local Public Funding provided by City of Johns Creek to a Development Project to assist in the provision of the Inclusionary Housing Component.

Income, Area Median. The annual median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937.

Initial Owner. The first person or persons to purchase a new for-sale Inclusionary Unit for his, her or their primary residence.

Legislative Entitlement. Means and includes general and community plan designations and redesignations, zonings and rezonings, and planned unit development site plans and revised site plans.

Local Public Funding. Loans and grants from the Housing Trust Fund, federal Home Investment Partnership Program ("HOME" funds), and redevelopment area tax increment housing set-aside funds, and other funds originating from or administered by the City of Johns Creek.

Low Income Housing Tax Credits. Federal and State financing in which federal housing tax credits are awarded to developers to raise capital for the development of affordable multi-family rental units.

Market Rate. Rates not restricted to an Affordable Housing Price or Affordable Rent.

Multi-family Residential. Residential units planned, approved, or built on land planned or zoned for other than Single-Family Residential in which Housing Tax Credits have been awarded for the purpose of developing affordable multi-family rental units.

Off-Site Unit. An Inclusionary Unit that is built separately or at a different location than the main development.

On-Site Unit. An Inclusionary Unit that will be built as apart of the main development.

One Location. All adjacent land owned or controlled by the same Owner or a Related Owner, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way.

Owner. Includes the person, persons, partnership, joint venture, association, corporation, or public or private entity having sufficient proprietary interest in real property to commence, maintain, and operate a Development Project.

Percent. A one hundredth part. In applying percentages referred to in this Section, any portion of a Percent less than one half (0.5%) shall be disregarded and any portion of a Percent one half (0.5%) or greater shall be rounded up to the next whole number.

Project, For Sale. A residential project, or portion thereof, which is intended to be sold to owner-occupants upon completion.

Project Level Approval. Includes a concept plan, a Special Permit, or other administrative or adjudicatory approval or determination in connection with a Development Project.

Related Owner. A person or entity, including but not limited to, partnerships, limited partnerships, and corporations, which has any of the following relationships with an Owner: (1) they share the majority of members of their governing boards; (2) they share two or more officers: (3) they are owned or controlled by the same majority shareholder(s) or general partner(s); (4) they are in a parent-subsidiary relationship; or (5) the person is a sibling, offspring or parent of an individual Owner. For purposes of this subsection, a controlling interest means fifty percent (50%) or more of the voting power of a corporation,

and a parent-subsidiary relationship exists when one corporation owns, directly or indirectly, fifty percent (50%) or more of the voting power of another corporation. For purposes of this section, a person and any general partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one and the same.

Residential Project. The entirety of Market Rate residential development in a Development Project subject to the requirement to provide an Inclusionary Housing Component as specified in this Section.

Single-family Residential. A development planned, approved, or built on land planned or zoned solely for a permitted residential density of one unit per parcel. Where such a planning or zoning single-family designation also allows as a conditional use duplexes or similar uses, the designation is nonetheless considered Single-family Residential for purposes of the Inclusionary Housing Component and the other provisions of this Section.

City of Johns Creek Zoning Ordinance. The City of Johns Creek Zoning Ordinance as it may be amended from time to time.

4.26.3. *Standard Inclusionary Housing Component.*

A. *Number and Affordability of Inclusionary Units.* For all residential developments of 20 units or more, the Inclusionary Housing Component shall consist of Inclusionary Units developed for, offered to, and leased or sold to Very Low, Low, and Moderate Income Households as follows: at least 5 percent of the units must be restricted to occupancy of moderate income households and 5 percent of the units must be restricted to occupancy of low and/or very low income households. For the purposes of calculating the number of inclusionary units, any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number.

B. *Location of Inclusionary Units.* Except as provided in this Section, Inclusionary Units shall be built on the site of the Development Project and must be dispersed throughout a Residential Development.

C. *Timing of Development.* The Inclusionary Housing Plan and Inclusionary Housing Agreement shall include a phasing plan, which provides for the timely development of the Inclusionary Units as the Residential Project is built out. The phasing plan shall provide for development of the Inclusionary Units concurrently with the Market Rate Units; provided however, that the phasing plan will be adjusted by the Director of Community Development away from strict concurrency where necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the Market Rate and the Inclusionary Units. Multi-family development shall

D. *Design.* Inclusionary units for single-family shall be comparable in infrastructure (including sewer, water and other utilities), construction quality, and exterior design to the market rate units. Inclusionary units may be smaller in aggregate size and have different interior finishes and features than market rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. Inclusionary single-family units must be a minimum of 1,600 square feet for moderate-income households, 1,250 square feet for low-income households, and 1,000 square feet for very low-income households. The number of bedrooms in the inclusionary units should be comparable in number to those in the market rate units. The ratio of bathrooms per bedroom should be equal to the ratio of bathrooms per bedroom in market rate units. Multi-family design standards shall be consistent with the proposed development.

E. *Unit Size.* The Inclusionary Housing Component shall accommodate diverse family sizes by including a mix of studio, one, two and three-bedroom units as determined by the Director of Community Development, upon recommendation by the Director of the Office of Housing.

F. *Exterior Appearance.* Inclusionary Units shall be visually compatible with the Market Rate Units. External building materials and finishes shall be the same type and quality for Inclusionary Units as for Market Rate Units. Interior materials finishes may vary.

G. *Development Standards.* Except as provided in the Inclusionary Housing Agreement pursuant to this Section, Inclusionary Units shall comply with all applicable Development Standards.

4.26.4. *Incentives, Assistance and Subsidies.* The Developer of a Development Project subject to the Inclusionary Housing provisions may request that the City of Johns Creek provide Inclusionary Incentives as set forth in this Section. The goal of these Inclusionary Incentives is to apply available incentives to qualifying projects in a manner that, to the extent feasible, offsets the cost of providing the Inclusionary Housing Component. The Director of Community Development shall respond to that request at the time and in the manner specified in this Section, and shall make a determination as to a package of Inclusionary Incentives for the Inclusionary Units as provided in this Section.

A. *Fee Waivers or Deferrals.* Upon application, the City of Johns Creek shall make available to a Residential Project Developer a program of waiver, reduction or deferral of development fees, Impact Fee Waiver, administrative and financing fees for Inclusionary Units. Such a program may include application, on behalf of a Developer, to other government entities for fee waiver and deferral program for waiver and/or deferral of other impact or development fees.

B. *Modification of Development Standards.* Upon application, the City of Johns Creek may modify for Inclusionary Units, to the extent feasible in light of the uses, design, and infrastructure needs of the Development Project, as determined by the Director of Community Development and the Office of Housing Director, development standards, including but not limited to, road widths, curb and gutter, parking, and housing types.

C. *Interior Finish Reductions.* Upon application, the City of Johns Creek may, to the maximum extent appropriate in light of project design elements as determined by the Director of Community Development, allow builders to finish out the interior of Inclusionary Units with less expensive finishes and appliances.

D. *Streamlining and Priority Processing.* The Director of Community Development shall expedite development Permits for Residential Projects that include an Inclusionary Housing Component. The City of Johns Creek shall develop further procedures for streamlining and priority processing which relieve Inclusionary Units of permit processing requirements to the maximum extent feasible consistent with the public health, safety and welfare.

E. *Density Bonus.* The City of Johns Creek shall make available to the Residential Project a Density Bonus as provided in this Section. The number of units allowed may be increased by 20 percent provided, however, that the affordability requirements to qualify for a Density Bonus shall be those stated in this Section.

F. *Local Public Funding.* The Developer may apply to the Office of Housing for Local Public Funding to assist in the financing and development of the Inclusionary Housing Component. Local Public Funding may serve to facilitate state allocation of tax credits, mortgage revenue bond funds, or state or federal assistance to the Project ("External Subsidy"); provided that the provision of such Local Public Funding requires that Developer diligently pursue such External Subsidy and is not intended to substitute for such External Subsidy. A Developer seeking Local Public Funding shall apply to the Office of Housing Director for such funding pursuant to this Section. The Office of Housing Director shall submit the proposed Local Public Funding assistance package to the Director of Community Development for inclusion in the City of Johns Creek's Inclusionary Incentives for the project.

The Office of Housing Director, as to the feasible elements of Local Public Funding and in making the determination as to inclusion of Local Public Funding in the Inclusionary Incentives, shall consider:

(1) The number, percentage, and tenure of the Units for Very Low Income or Low Income Households in the Inclusionary Housing Component;

(2) The financial structure and financing needs of the Inclusionary Housing Component;

(3) The cost-efficiency of the solution to the Inclusionary Housing Component;

(4) The Developer's initiatives in applying for grants and other funds external to Local Public Funding;

(5) The availability of funds given the funding priorities of Office of Housing and other funding agencies at the time, and other development of housing for Very Low or Low Income Households under way, proposed or anticipated; and

(6) Other factors necessary to the evaluation.

Office of Housing shall adopt and provide to Developers and other interested parties criteria for evaluation of applicants for Local Public Funding. These criteria may be contained in the Guidelines as outlined by the Office of Housing.

4.26.5. *Construction of the Inclusionary Housing Component to Avoid Over Concentration.* The following principles shall apply to the development of the Inclusionary Housing Component:

A. The Inclusionary Housing Plan shall provide for the dispersal of buildings containing Inclusionary Units to the maximum extent feasible taking into account the funding and financing environments applicable to Inclusionary housing development.

B. Multi-family buildings may contain any proportion of inclusionary units, but no Inclusionary Housing Development may be located adjacent to another Inclusionary Housing Development. For purposes of this Section, Inclusionary Housing Development means a development containing a building with more than eight (8) units for multi-family or for all residential developments of 20 units or more, in which 10 percent of the total units must be inclusionary units restricted for occupancy by very low, low, or moderate income households except as otherwise provided for herein. The Director of Community Development may allow for variation from these principles, but only the extent necessary, if he or she determines that an alternative configuration of Inclusionary Units is required by funding or financing considerations associated with the development of the Inclusionary Units or by the applicable residential land use designations within and adjacent to the Residential Project.

C. Proposed Inclusionary Single-family Housing Developments that are located within a census track(s) in which 95% of the existing units are below 80% AMI, must submit a Housing Development Plan that includes the following mixed housing price points for sale:

i. 20% not to exceed $150,000

ii. 60% between $150,000 and $216,000

iii. 20% Market

4.26.6. *Alternatives to the Standard Inclusionary Housing Component.* Subject to the approval of the Mayor and City Council in lieu of constructing affordable housing units on site, a developer may dedicate land or pay in-lieu housing fees. At the time of concept plan review, the developer shall be required to provide a report to the Community Development Director identifying the reasons the construction of the required number of affordable housing units within the development is not feasible. The report shall include sufficient independent data, including appropriate financial information, which supports the developer's claim that it is not feasible to construct the required affordable units and a detailed analysis of why the density bonus cannot mitigate the conditions that prevent the developer from constructing the affordable units. The Director shall review all such requests and prepare a recommendation to the Mayor and City Council. Such requests shall be considered on a case-by-case basis by the Mayor And City Council and may be approved at the Mayor And City Council's sole discretion. The monetary value of an alternative equivalent must be equal to or exceed the cost to produce the required number of affordable housing units on site.

A. *Land Dedication and Off-Site Compliance Options.* Upon a determination by the Director of Community Development that the criteria outlined in number 4 below have been met, a

Residential Project may provide all or part of its Inclusionary Housing Component by means of the following options:

(1) *Dedication of Land to the City of Johns Creek at No Cost.* Under this option, a developer may donate to the County a site on which all or a portion of the mandated inclusionary units can be built. The dedicated site must be located in the same planning area (as defined by the Comprehensive Plan) in unincorporated City of Johns Creek and must be physically suitable for development at the time of conveyance. It must be of sufficient size and properly zoned to accommodate the requisite number of units. It must already have access to water and sewer and public services (police, fire, etc.). The property should not have physical constraints that cause delay or increase construction costs (e.g., grading) or be unsuitable for residential development (e.g., contain toxins). The developer shall provide an appraisal of the land and its appraised value shall be confirmed by the County's Land Division of the General Services Department.

(2) *Development of Inclusionary Units Off-site.* Inclusionary units may be constructed outside the Development Project within an Area ("Off-Site") for a Residential Project that is single-family or multifamily.

(3) *A Combination of Options (1) and (2).*

(4) *Standard for Approval.* The Director of Community Development may approve the proposal only if it provides a more cost-efficient solution to the Inclusionary Housing Component than the standard approach set forth in this Section, or if the location of Off-Site development would be superior to on-site development from the perspective of access to transportation or other applicable residential planning policies in the City of Johns Creek Comprehensive Plan.

(5) *Number of Inclusionary Units Credited to the Dedication or Off-Site Location.* The number of Inclusionary Units credited to the dedication or Off-Site location will consist of the number of Inclusionary Units which can with reasonable degree of certainty be developed on the land, given (a) the mix of Inclusionary Unit sizes and type of structure in the Inclusionary Housing Plan; (b) densities permitted by applicable planning and zoning designations; and (c) site, infrastructure, environmental and other physical and planning constraints.

(6) *Site Suitability.* The land proposed for dedication or for Off-Site location must be suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, and other relevant planning criteria. The site must allow development of Inclusionary Units in a manner that complies with this Section including the over-concentration provisions set forth in Section 4.26.4.

(7) *Site Identification and Regulatory Status.* The Developer must identify the proposed dedicated site or Off-Site location and the number of proposed Units to be credited thereby as part of the Inclusionary Housing Plan required in this Section. At the same time or before the Development Project receives its Inclusionary Incentives, the dedicated or Off-Site land shall have received all the Inclusionary Incentives necessary for development of the Inclusionary Units on such land. Unless the phasing plan requires otherwise, at the same time or before a Residential Project receives its first Project specific Entitlements, the dedicated or Off-Site land shall have received all the necessary Project-Level Approvals necessary for development of the Inclusionary Units on such land, and prior to the issuance of any Certificate of Occupancy for a Residential Project, the dedicated land or Off-Site land shall be fully served with the infrastructure necessary for residential development.

(8) *Director of Community Development Action.* The Director of Community Development may recommend conditional approval or denial of the proposed land dedication or Off-Site development proposal. In reviewing the proposal, the Director of Community Development

will consult with the Director of the Office of Housing. If the land dedication or the Off-Site proposal is accepted or accepted as modified, the relevant elements of the Inclusionary Housing Plan shall be included in the applicable Legislative Approvals for both the Residential Development generating the requirement for the Inclusionary Housing Component and, if applicable, the dedicated site or Off-Site Development Project where all or part of that requirement is proposed to be met. If the dedication or Off-Site proposal is rejected, the Inclusionary Housing Component shall be provided as set forth in this Section within the Development Project.

(9) *Implementation.* As early as possible in the regulatory process, and in no case later than the negotiation of the Inclusionary Housing Agreement as provided in this Section, the Owner of the Residential Project must: (1) In the case of land dedication, provide an irrevocable offer of dedication for the dedicated site at no cost to the City of Johns Creek; and (2) In the case of Off-Site land, demonstrate to the Director of Community Development and the Office of Housing Director that the Off-Site location is and will remain committed to the timely development of the Inclusionary Units as provided in the Inclusionary Housing Plan. This commitment may be demonstrated through ownership of the Off-site location, or through adequate control of the use of the Off-site location through joint ownership, joint venture or other contractual means. If necessary to ensure that Inclusionary Housing Units are developed contemporaneously with the Market Rate Units, the Director of Community Development may require the offer of dedication or evidence of Off-Site control as early as the first Legislative Entitlement. With respect to an Off-site location, the Director of Community Development may also condition development or occupancy of the Residential Project on development or occupancy of the Off-Site Inclusionary Units, and the Inclusionary Housing Agreement must apply to and be recorded against both the Residential Project and the Off-Site land. With respect to dedicated land, the City of Johns Creek, upon acceptance of the offer of dedication, shall publish a request for proposal for development of the site(s), which will result in the production of the number of Inclusionary Units credited to the site(s).

B. *In-Lieu Housing Fees.* For Residential Developments of 20 or more units, including Inclusionary Units, the requirements of this Section may be satisfied by paying an in-lieu fee to the Affordable Housing Trust Fund.

(1) Under this option, the developer may pay an amount equivalent to the cost of constructing the mandated units at the required affordability levels. Fees shall be calculated for the construction of affordable housing units for moderate and low and very low income households and shall be adjusted annually based upon the estimated average construction cost per square foot of floor area for single-family (not including the value of the improved lot) as estimated for the region (south) by the National Association of Home Builders or the American Apartment Association for multi-family development.

(2) The County Manager shall establish an affordable Housing Trust Fund for the receipt and management of in-lieu housing fees. Monies received into the fund shall be utilized solely for the construction or purchase and maintenance of affordable housing and for the costs of administering programs consistent with the purposes of the section. In all cases, the required number of housing units at the required levels of affordability shall be provided for by this fund.

(3) Fees must be paid within ten calendar days of issuance of a building permit for the Development or the permit will be null and void. For phased Developments, payments may be made for each portion of the Development within ten calendar days of the issuance of a Building Permit for that phase. When payment is delayed, in the event of default, or for any other reason, the amount of the in-lieu fee payable under this Section will be based upon the fee schedule in effect at the time the fee is paid.

(4) No final inspection for occupancy will be completed for any corresponding Market-rate Unit in a Residential Development unless fees required under this Section have been paid in full to the Department of Community Development.

C. *Combined Dedication of Land and In-Lieu Housing Fees.* Under this option, the developer may dedicate land and pay in-lieu housing fees equivalent to the cost of producing the mandated units at the required affordability levels. The developer shall provide an appraisal of the land and its appraised value shall be confirmed by the County's Land Division of the General Services Department.

4.26.7. *Exclusions.* The requirements of this Article do not apply to:

A. Housing developments of fewer than 20 lots;

B. Structures that have been destroyed by fire, flood, earthquake or other act of nature provided that the reconstructed site does not increase the number of residential units;

C. Developments that already have more units that qualify as affordable to moderate, low and very low income households than this Article requires;

D. Housing constructed by other government agencies.

4.26.8. *Duration of Affordability.*

A. *Rental Inclusionary Units.* Units shall remain Affordable for a period of no less than thirty (30) years from the recordation of the Affordable Rental Agreement;

B. *For Sale Single-Family Unit.* Units shall remain Affordable for a period of no less than fifteen (15) years from the recordation of the Affordable Housing Agreement.

4.26.9. *Affordability and Resale of For-Sale Units (Sustainability Policy).* Each affordable unit created in accordance with this Section shall have limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force for a period of fifteen (15) years concurrent with an equity-sharing program between the County and the homeowner.

A. *Initial Sale.* To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to the transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the County, that household's annual income level does not exceed the maximum level as established by the Office of Housing, and as may be revised from time to time.

B. *Maximum Cost.* The maximum housing cost for affordable units created under this bylaw is as established by the Office of Housing and the Local Initiative Program or as revised by the County.

C. *Resale to an Income Eligible Person Exception.* The Owner of a Residential project shall sell Inclusionary Housing Units to an income-eligible Initial Owner at an Affordable Price. Thereafter for a period of fifteen (15) years from the recordation of the note or other document as provided below, the Initial Owner and any subsequent owner shall notify the Office of Housing in writing of their intent to sell the Inclusionary Unit. The Homeowner or its assignee shall have ninety (90) days from receipt of the notification to (1) identify, qualify, and refer to the seller an income-eligible purchaser or request an extension. The Initial Owner and any subsequent owner shall sell the unit to the referred purchaser at the resale price established by the Office of Housing as provided in this section. In the event that the Homeowner or its assignee does not complete the

purchase of the unit within the time frames specified above, an extension for the sale of the Inclusionary Unit must be obtained from the Office of Housing.

D. *Recordation of Note - Agreement or Covenant and Recapture Upon Sale.* At the time of the initial sale and any subsequent sale to an income-eligible purchaser, the Office of Housing shall record an interest-bearing note, secured by a deed of trust, and/or regulatory agreement or covenant to recapture the difference between the Inclusionary Unit's market value, as determined by an appraiser approved by Office of Housing, and its Affordable Housing Price at the time of sale or resale. The Office of Housing shall also record a deed of trust encumbering any other monetary Inclusionary Incentives. The deed of trust, regulatory agreement, or covenant shall require that for a period of no less than 15 years, the unit may be resold to an income eligible purchaser. The full principal amount and interest will be due on sale to any non income eligible purchaser; due on change of use from an owner-occupied residential unit to any other use or if the Inclusionary Unit is rented; and due on any refinance of the Inclusionary Unit without the Office of Housing approval. The Office of Housing shall apply all recaptured funds to subsidize other for sale Inclusionary Housing Units.

E. *Resale Price.* Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in this Section. For example, if a unit appraised for $100,000 is sold for $75,000 as a result of this bylaw, it has sold for 75 percent of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is $150,000, the unit may be sold for no more than $112,500—75 percent of the appraised value of $150,000.

Right of first refusal to purchase: The purchaser of an affordable housing unit developed as a result of this Ordinance shall agree to execute a deed rider prepared by their attorney, consistent with model riders prepared by the Office of Housing, granting, among other things, the County's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

The Office of Housing shall require, as a condition for permitting under this Section, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in this Section. Community Development shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

F. *Equity Sharing Program.* A homeowner is entitled to a share of the equity for each year of ownership pursuant to policies established by the Office of Housing. After the expiration of the 15 year affordability period, the homeowner must pay one half of the excess of the total resale price over the sum of: prior maximum sales price; a percentage of the affordable unit's prior purchase price with the cost of living increase since last sold; the fair market value documented capital improvements; and a reasonable sales and commission. If the amount remaining is less than $20,000, the amount due to the special revenue fund will be adjusted so the seller receives $10,000. If the amount is less than $10,000, the seller will receive the entire amount.

G. *The Office of Housing Guidelines.* The County Manager's Office of Housing shall adopt guidelines for the administration of this program. The guidelines may provide for a graduated increase in the rate of increase of market value over the time of ownership of a for-sale Inclusionary Unit by one Owner or for forgiveness of all or a portion of the note(s) when (1) the resale value of the Inclusionary Unit falls below the market value of the unit at its last sale; or (2) the income-eligible owner occupies the unit for a substantial period of time.

4.26.10. *Occupancy Requirement.*

A. *Rental Units.* Any person who occupies a rental Inclusionary Unit shall occupy that Unit as his or her principal residence.

B. *For-Sale Units.* An Individual who purchases a for-sale Inclusionary Unit shall occupy that unit as his or her principal residence, and shall certify to the Developer of the Unit or the Office of Housing that he or she is income eligible.

4.26.11. *Administration of the Inclusionary Housing Component.* The Inclusionary Housing Program shall be administered by two County agencies: Community Development and the County Manager's Office of Housing. Community Development shall oversee the zoning and permitting process. The Director of the Office of Housing shall be responsible for determining targeted rental and ownership affordability, resident qualifications, and monitoring the program. The Office of Housing shall conduct a study within eighteen (18) months of the 24-month voluntary period, to determine the success of the Ordinance to determine whether the Program should remain voluntary or mandatory.

A. *Proposed Inclusionary Housing Plan.* At the time of and as part of the application for the Inclusionary Zoning, the Developer of a Development Project shall present to Community Development and the Office of Housing a draft Inclusionary Housing Plan, which shall contain, at a level of detail appropriate to the request, the number, unit mix, location, structure type, affordability, and phasing of Inclusionary Units. If land dedication or an Off-Site location is proposed, the draft Plan shall include information necessary to establish site location, suitability, development constraints, and the number of Inclusionary Units assigned.

B. *Action on Inclusionary Housing Plan.* Community Development and the Office of Housing shall review the proposed Inclusionary Housing. No Zoning designation shall be granted without an adequate Inclusionary Housing Plan. The elements of the Inclusionary Housing Plan shall be incorporated into the terms and conditions of the applicable Project-specific Approvals.

C. *Inclusionary Housing Agreement.*

1. *Requirement.* No Development Agreement or Project-specific Approval may be issued by the City of Johns Creek without an executed Inclusionary Housing Agreement executed by the Owner, the Developer (if not Owner), and the Director of the Office of Housing acting with the advice of the Community Development Director. Recordation of the Agreement shall be a condition of approval of any Development Agreement, Disposition and Development Agreement or Project-level Approval.

2. *Timing.* The Inclusionary Housing Agreement shall be negotiated concurrently with the processing of an application for the earlier of a Development Agreement or the first Project-specific Approval. At the request of the Developer, and if Developer makes the project development and financing details set forth below in subparagraphs 3 and 4 available, the Inclusionary Housing Agreement may be negotiated earlier in connection with the issuance of a Legislative Entitlement.

3. *Contents.* The Agreement shall be consistent with the Inclusionary Housing Plan, and shall indicate: ownership or rental project, the number and size of Moderate, Very Low and Low income Units, the developer of the Inclusionary Units, the phasing and construction scheduling of the Units, commitments for Inclusionary Incentives, including Office of Housing commitments for Local Public Subsidy, and any other information required by the Office of Housing relative to the Inclusionary Housing Component. In the case of land dedication or Off-Site Inclusionary Housing, the Agreement shall also contain the information required in this Section.

4. *Information Required from Developer.* The Developer of the Development Project shall present to Community Development and the Office of Housing: (1) plans, schematics, and details of phasing of the Residential Project as a whole including the Inclusionary Housing Component; (2) financial pro-forma for the Inclusionary Housing Component with sufficient economic information to allow for evaluation of feasibility, financing and equity sources and requirements, and rates of return; (3) the name and address of the entity which will develop the Inclusionary Housing Component if not Developer; (4) in the case of land dedication,

an executed irrevocable offer of dedication at no cost; (5) in the case of Off-Site location, the evidence of site control required in this Section, and (6) any other information reasonably required by the Office of Housing in connection with the Agreement.

5. *Local Public Subsidy.* The Developer of the Development Project may apply to the Office of Housing for Local Public Subsidy. Such an application shall contain the planning and financial information necessary to evaluate the eligibility and suitability of the project for Local Public Funding and shall include timetables or copies of proposals for External Subsidy. The application will be considered pursuant to the Office of Housing Multi Family Lending Guidelines, Office of Housing Single-Family Ownership Housing Financing Guidelines, and any Guidelines developed pursuant to this Section. The Office of Housing shall determine the Inclusionary Incentives it will make available in connection with the Residential Project as provided in this Section. The Inclusionary Housing Agreement shall specify the nature and amount of Local Public Funding. If the City of Johns Creek fails to make available the Inclusionary Incentives set forth in an executed and recorded Inclusionary Housing Agreement, the Residential Project shall be relieved of the portion of the Inclusionary Obligation that represents the percentage of local public funding committed in the Agreement but not provided. At the City of Johns Creek's option, the Agreement may provide that if the Local Public Funding component of the Inclusionary Incentives is delayed beyond the time provided for in the Agreement, the construction of Inclusionary Units may be deferred until funding availability, or that during the period of delay, the Owner may offer the Inclusionary Units as rental units at Market Rate until such time as the Local Public Funding indicated in the Agreement becomes available, at which time such rental units, upon being voluntarily vacated by existing market rate tenants, would be offered as Inclusionary Units.

6. *Incorporation into Project-level Approvals and Recordation.* The Developer's obligations and the Inclusionary Incentives in the Agreement shall be incorporated into the Project-specific Approvals. The executed Agreement shall be recorded as a covenant running with the land against the real property of the Residential Project and, in the case of Off-Site Inclusionary Units, against the real property on which such Units are to be located.

D. *Administration of Affordability for Rental Inclusionary Housing.* The Owner of rental Inclusionary Units shall be responsible for certifying the income of tenant to the Office of Housing at the time of initial rental and annually thereafter. The Owner of rental Inclusionary Units shall apply the same rental terms and conditions (except rent levels, deposits and income requirements) to tenants of Inclusionary Units as are applied to all other tenants, except as otherwise required to comply with government subsidy programs. Discrimination based on subsidies received by the prospective tenant is prohibited. The City of Johns Creek Office of Housing shall keep confidential the personal identifying information of the household members occupying an Inclusionary Unit.

E. *Guidelines.* The Office of Housing Multi-family Development Financing Guidelines and the Office of Housing Single-Family Ownership Housing Financing Guidelines shall apply to Inclusionary Housing developed under this Section. The Director of Community Development and Office of Housing Director may jointly develop, and either of them may adopt, additional guidelines as necessary for the implementation of this Section consistent with the terms contained herein.

4.26.12. *Administrative Fees.* The City of Johns Creek Mayor and City Council may by ordinance establish reasonable fees and deposits for the administration of this Section.

4.26.13. *Participation.* Participation in the Inclusionary Housing Zoning Program shall be voluntary for a twenty-four month period after which it will sunset until the Mayor and City Council determines the effectiveness of the program and the conditions for its future implementation.

4.26.14. *Enforcement and Penalties.*

A. No Inclusionary Incentives shall be issued or valid without an Inclusionary Housing Plan as required by this Section.

B. No Project-specific Approval nor Development Agreement shall be issued for any Development Project unless an Inclusionary Housing Agreement has been approved and executed, and no building permit or certificate of occupancy shall issue until the Inclusionary Housing Agreement has been recorded as required by this Section.

C. If the developer violates this ordinance in any way, including not constructing the required affordable units, the County may deny, suspend, or revoke any and all building or occupancy permits. The County can also withhold any additional building permits until the affordable units are built.

D. If the ordinance is violated by the sale of an affordable unit, the County can enjoin or void any transfer of the affordable unit and require the owner to sell the unit to an eligible income individual.

E. The City of Johns Creek may bring such civil and criminal enforcement actions as are provided for in the City of Johns Creek Code.

4.26.15. *Severability.* The City of Johns Creek Mayor and City Council hereby declares that every section, paragraph, clause and phrase of this Ordinance is severable. If, for any reason, any provision of the ordinance is held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

4.26.16. *Appeals.* Any persons aggrieved by a final decision of the Department of Community Development relating to this article may appeal such final decision to the Board of Zoning Appeals by filing in writing setting forth plainly, fully and distinctly why the final decision is contrary to law per the City of Johns Creek Zoning Ordinance. Such appeal shall be filed within 30 days after the final decision of the department is rendered.

4.26.17. *Effective Date.* The effective date of this Zoning Amendment shall be January 1, 2007.

Secs. 4.27—4.29. Reserved.

Sec. 4.30. Zoning Text, District Classifications and Boundaries.

In order to regulate the location of structures, the height and bulk of structures, the use and intensity of use of lots and structures, and to regulate open spaces and aesthetics, the City of Johns Creek is divided into zoning districts which are individually described in this Ordinance. Those Zoning districts as of the date of adoption of this ordinance of amendment are:

AG-1 Agricultural District

R-1 Single-Family Dwelling District

R-2 Single-Family Dwelling District

R-2A Single-Family Dwelling District

R-3 Single-Family Dwelling District

R-3A Single-Family Dwelling District

R-4A Single-Family Dwelling District

R-4 Single-Family Dwelling District

R-5 Single-Family Dwelling District

R-5A Single-Family Dwelling District

R-6 Two-Family Dwelling District

NUP Neighborhood Unit Plan District

CUP Community Unit Plan District

MHP Mobile Home Park District

O-I Office and Institutional District

TR Townhouse Residential District

A Medium Density Apartment District

A-L Apartment Limited Dwelling District

MIX Mixed Use District

C-1 Community Business District

C-2 Commercial District

M-1 Light Industrial District

M-1A Industrial Park District

4.30.1. *Boundaries.* The boundaries of the several zoning districts are shown on the City of Johns Creek zoning maps. Street rights-of-way shall serve as district boundaries adjoining property lines, and all such right-of-ways shall not be zoned. Inconsistencies between legal boundary descriptions submitted at the time of rezoning and lot lines identified from more recent surveys shall be interpreted to attach the zoning to the legal lot.

4.30.2. *Zoning Text.* The official text of the City of Johns Creek Zoning Ordinance shall be kept on file by the Clerk to the Mayor and City Council.

4.30.3. *Zoning Maps.* The Official Johns Creek Zoning Map with all information contained thereon are part of this Ordinance and have the same force and effect as if fully set forth and/or described herein. The zoning map is on file with the Community Development Department.

4.30.4. *Territory Added.* All unincorporated territory which may be annexed to the City of Johns Creek or which may be unincorporated from a municipality within the County shall require a concurrent rezoning to an appropriate zoning classification based on the criteria outline in Article XXVIII.

4.30.5. *Abandonment.* Whenever any street, alley, or other public way is abandoned by The City of Johns Creek, Fulton County or by the State of Georgia, the zoning district adjoining such street, alley or public way shall be extended to the center of such public way.

ARTICLE V. AGRICULTURAL DISTRICTS

Sec. 5.1. AG-1 Agricultural District.

Sec. 5.1. AG-1 Agricultural District.

5.1.1. *AG-1 District Scope and Intent.* Regulations set forth in this Article are the AG-1 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative or Use Permit. The AG-1 District is intended to encompass lands devoted to a wide range of uses including individual parcels devoted to residential use, single-family subdivisions, agricultural and closely related uses.

5.1.2. *Use Regulations.*

A. *Permitted Uses.* A building or property may be used for only the following purposes:

1. Single-family dwelling.
2. Agriculture, general and specialized farming, including: horticulture, plant nursery, greenhouse, dairy farming, livestock raising and poultry raising provided, however, that buildings used for housing animals must be at least 100 feet from all property lines.
3. Roadside stand for the sale of agricultural products produced on the property.
4. Riding Stable other than accessory, provided buildings housing animals are at least 100 feet from all property lines and the lot is not less than ten acres. Standards for keeping horses other than for a non-accessory Public Riding Stable are the same as the standards contained in Section 4.8.1 pertaining to the keeping of horses in a single-family dwelling district.
5. Kennel, Veterinary Hospital or Veterinary Clinic, provided buildings housing animals are fully enclosed and at least 100 feet from all property lines; and pens, runs, etc. which are not located in a fully enclosed building are at least 200 feet from all property lines.

B. *Accessory Uses.* A building or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

5.1.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 60 feet

C. *Minimum Side Yard:*

25 feet adjacent to interior line

40 feet adjacent to street

D. *Minimum Rear Yard:* 50 feet

E. *Minimum Lot Area:*

1 acre with frontage on paved road

3 acres with frontage on unpaved road

F. *Minimum Lot Width:* 100 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:* There is no minimum heated floor area in this district.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in rear or side yards but shall not be located within a minimum yard.

5.1.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE VI. SINGLE-FAMILY DWELLING DISTRICTS

Sec. 6.1. R-1 Single-Family Dwelling District.

Sec. 6.2. R-2 Single-Family Dwelling District.

Sec. 6.3. R-2A Single-Family Dwelling District.

Sec. 6.4. R-3 Single-Family Dwelling District.

Sec. 6.5. R-3A Single-Family Dwelling District.

Sec. 6.6. R-4 Single-Family Dwelling District.

Sec. 6.7. R-4A Single-Family Dwelling District.

Sec. 6.8. R-5 Single-Family Dwelling District.

Sec. 6.9. R-5A Single-Family Dwelling District.

Sec. 6.1. R-1 Single-Family Dwelling District.

6.1.1. *R-1 District Scope and Intent.* Regulations set forth in this Section are the R-1 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative or Use Permit. The R-1 District encompasses lands devoted to residential areas and closely related uses.

6.1.2. *Use Regulations.* Within the R-1 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.

2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A building or lot may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.1.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 60 feet

C. *Minimum Side Yard:*

25 feet adjacent to interior line

40 feet adjacent to street

D. *Minimum Rear Yard:* 50 feet

E. *Minimum Lot Area:* 2 acres

F. *Minimum Lot Width:* 200 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,800 square feet on ground level for less than two-story

2,000 square feet for two-story or more than two-story with 1,200 square feet on ground floor

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.1.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning.

Sec. 6.2. R-2 Single-Family Dwelling District.

6.2.1. *R-2 District Scope and Intent.* Regulations set forth in this Section are the R-2 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative or Use Permits. The R-2 District is intended to provide land areas devoted to very low density residential uses. The District also provides for closely related uses.

6.2.2. *Use Regulations.* Within the R-2 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.
2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.2.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 60 feet

C. *Minimum Side Yard:*

15 feet adjacent to interior line

30 feet adjacent to street

D. *Minimum Rear Yard:* 40 feet

E. *Minimum Lot Area:* 1 acre

F. *Minimum Lot Width:* 150 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,600 square feet on ground level for less than two-story.

1,800 square feet for two-story or more than two-story with 1,050 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.2.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.3. R-2A Single-Family Dwelling District.

6.3.1. *R-2A District Scope and Intent.* Regulations set forth in this Section are the R-2A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-2A District is intended to provide land areas devoted to low density residential uses. The District also provides for closely related uses.

6.3.2. *Use Regulations.* Within the R-2A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.
2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.3.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 60 feet

C. *Minimum Side Yard:*

15 feet adjacent to interior line

30 feet adjacent to street

D. *Minimum Rear Yard:* 40 feet

E. *Minimum Lot Area:* 27,000 square feet

F. *Minimum Lot Width:* 120 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,700 square feet on ground level for less than two-story.

1,800 square feet for two-story or more than two-story with 1,050 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.3.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.4. R-3 Single-Family Dwelling District.

6.4.1. *R-3 District Scope and Intent.* Regulations set forth in this Section are the R-3 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-3 District is intended to provide land areas devoted to low density residential uses. The District also provides for closely related uses.

6.4.2. *Use Regulations.* Within the R-3 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.
2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.4.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 50 feet

C. *Minimum Side Yard:*

10 feet adjacent to interior line

20 feet adjacent to street

D. *Minimum Rear Yard:* 35 feet

E. *Minimum Lot Area:* 18,000 square feet

F. *Minimum Lot Width:* 100 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,200 square feet on ground level for less than two-story.

1,320 square feet for two-story or more than two-story with 900 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.4.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.5. R-3A Single-Family Dwelling District.

6.5.1. *R-3A District Scope and Intent.* Regulations set forth in this Section are the R-3A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-3A District is intended to provide land areas devoted to low density residential uses. The District also provides for closely related uses.

6.5.2. *Use Regulations.* Within the R-3A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.

2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.5.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 50 feet

C. *Minimum Side Yard:*

10 feet adjacent to interior line

20 feet adjacent to street

D. *Minimum Rear Yard:* 35 feet

E. *Minimum Lot Area:* 18,000 square feet

F. *Minimum Lot Width:* 100 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,600 square feet on ground level for less than two-story.

1,800 square feet for two-story or more than two-story with 1,050 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.5.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.6. R-4 Single-Family Dwelling District.

6.6.1. *R-4 District Scope and Intent.* Regulations set forth in this Section are the R-4 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-4 District is intended to provide land areas devoted to low density residential uses. The District also provides for closely related uses.

6.6.2. *Use Regulations.* Within the R-4 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.

2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

3. Two-family dwelling which complies with minimum lot area, yard and floor area requirements of the R-6, Two-Family Dwelling District, and where 40 percent or more of the dwellings fronting on the same side of a street between two intersecting streets is occupied by either two-family or multi-family dwellings.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.6.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 35 feet

C. *Minimum Side Yard:*

7 feet adjacent to interior line

20 feet adjacent to street

D. *Minimum Rear Yard:* 25 feet

E. *Minimum Lot Area:* 9,000 square feet

F. *Minimum Lot Width:* 70 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,000 square feet on ground level for less than two-story.

1,100 square feet for two-story or more than two-story with 800 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.6.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.7. R-4A Single-Family Dwelling District.

6.7.1. *R-4A District Scope and Intent.* Regulations set forth in this Section are the R-4A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-4A District is intended to provide land areas devoted to low density residential uses. The District also provides for closely related uses.

6.7.2. *Use Regulations.* Within the R-4A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.

2. Agriculture, general and specialized farming including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings

must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and the principal dwelling may be used for a home occupation.

6.7.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 35 feet

C. *Minimum Side Yard:*

7 feet adjacent to interior line

20 feet adjacent to street

D. *Minimum Rear Yard:* 25 feet

E. *Minimum Lot Area:* 12,000 square feet

F. *Minimum Lot Width:* 85 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area:*

1,200 square feet on ground level for less than two-story.

1,320 square feet for two-story or more than two-story with 900 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.7.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.8. R-5 Single-Family Dwelling District.

6.8.1. *R-5 District Scope and Intent.* Regulations set forth in this Section are the R-5 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-5 District is intended to provide land areas devoted to low density dwelling uses. Land areas zoned R-5 are further intended to provide a transition between medium and moderate density dwelling areas and higher density residential areas or nonresidential areas.

6.8.2. *Use Regulations.* Within the R-5 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.
2. Agriculture, general and specialized farming, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.
3. Two-family dwelling which complies with minimum lot area, yard and floor area requirements of the R-6 District, and where 40 percent or more of the dwellings fronting on

the same side of a street between two intersecting streets is occupied by either two-family or multi-family dwellings.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.8.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 20 feet

C. *Minimum Side Yard:*

5 feet adjacent to interior lot lines

15 feet adjacent to street

D. *Minimum Rear Yard:* 20 feet

E. *Minimum Lot Area:* 7,500 square feet

F. *Minimum Lot Width:* 60 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. Minimum Heated Floor Area Per Unit: 650 square feet

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

6.8.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 6.9. R-5A Single-Family Dwelling District.

6.9.1. *R-5A District Scope and Intent.* Regulations set forth in this Section are the R-5A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-5A District is intended to provide land areas devoted to medium density, single-family dwellings. Land areas zoned R-5A are further intended to provide a transition between low and high density dwelling areas or between low density dwelling areas and nonresidential areas.

6.9.2. *Use Regulations.* Within the R-5A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purpose:

1. Single-family dwelling.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

6.9.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Lot Area:* 4,000 square feet

C. *Minimum Lot Width:* None unless specified in conditions

D. *Minimum Lot Frontage:* 20 feet adjoining a street

E. *Minimum Heated Floor Area per Unit:*

Single-family: 850 square feet

F. *Minimum Perimeter Setback for the entire R-5A Development:* 40 feet

G. *Minimum Interior Setbacks—No Orientation to Buildings:*

1. *Minimum Front Yard:* 20 feet

2. *Minimum Side Yard:*

To place a building along an interior side lot line at between zero and 7 feet shall require an encroachment and maintenance easement allowing a minimum of 7 feet of access to such buildings. A minimum building separation of 14 feet shall be maintained.

20 feet adjoining local streets.

3. *Minimum Rear Yard:* 20 feet

H. *Minimum Interior Building Separations:* All building separations shall be as specified by the Standard Building Code

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in rear or side yards but shall not be located within a minimum rear yard except that detached garages may locate along a rear lot line at between zero and 7 feet with an encroachment and maintenance easement allowing a minimum of 7 feet of access to the garage.

6.9.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE VII. TWO-FAMILY; TOWNHOUSE; APARTMENT DWELLING DISTRICTS

Sec. 7.1. R-6 Two-Family Dwelling District.

Sec. 7.2. TR Townhouse Residential District.

Sec. 7.3. A Medium Density Apartment District.

Sec. 7.4. A-L Apartment Limited Dwelling District.

Sec. 7.1. R-6 Two-Family Dwelling District.

7.1.1. *R-6 District Scope and Intent.* Regulations set forth in this Section are the R-6 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The R-6 District is intended to provide land areas devoted to medium density, single-family and two-family dwellings. Land areas zoned R-6 are further intended to provide a transition between low and high density dwelling areas or between low density dwelling areas and nonresidential areas.

7.1.2. *Use Regulations.* Within the R-6 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.

2. Agriculture, general and specialized farming, initiated prior to March 7, 1990, including: horticulture, plant nursery, dairy farming, truck gardening and poultry raising provided, however, that agricultural buildings must be at least 200 feet from all side and rear property lines, and that no products shall be offered for sale on land so utilized.

3. Two-family dwelling.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

7.1.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Front Yard:* 25 feet

C. *Minimum Side Yard:*

7 feet adjacent to interior lot line

20 feet adjacent to street

D. *Minimum Rear Yard:* 20 feet

E. *Minimum Lot Area:* 9,000 square feet

F. *Minimum Lot Width:* 70 feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Heated Floor Area Per Unit:*

Single-family: 1,000 square feet on ground level for less than two-story.

1,100 square feet for two-story or more than two-story dwelling with 800 square feet on ground floor.

I. *Minimum Accessory Structure Requirements:* Accessory structures may be located in rear or side yards but shall not be located within a minimum yard.

7.1.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 7.2. TR Townhouse Residential District.

7.2.1. *TR District Scope and Intent.* Regulations set forth in this Section are the TR District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The TR District is intended to provide land areas devoted to medium density uses consisting of single-family and multi-family dwellings. Land areas zoned TR are further intended to provide a transition between low density and higher density residential areas or between low density residential and non-residential areas. The TR District is intended to:

A. Encourage the provision of usable open space and recreation areas as part of a living environment.

B. Be located primarily in areas near or adjacent to single-family areas.

C. Be located so as to provide a transition between single-family areas and nonresidential areas.

D. Be located near retail shopping and major thoroughfares.

E. Encourage home ownership.

7.2.2. *Use Regulations.* Within the TR District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling.
2. Two-family dwelling.
3. Triplex.
4. Quadraplex.
5. Townhouse.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

7.2.3. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Lot Area* or *Land Area Per Unit:* 2,000 square feet

C. *Maximum Density:* 9 units per gross acre

D. *Minimum Lot Width:* 20 feet

E. *Minimum TR Development Frontage:* 35 feet

F. *Minimum Lot Frontage:* 20 feet adjoining a street except up to 35 feet may be required whenever the Director of Public Works requires the extra width to protect catch basins.

G. *Minimum Heated Floor Area Per Unit:* 1,100 square feet

H. *Minimum Perimeter Setbacks for the entire TR Development:*

1. *Minimum Front Yard:* 40 feet
2. *Minimum Side Yard:*

   30 feet adjacent to interior line

   40 feet adjacent to street

3. *Minimum Rear Yard:* 35 feet

I. *Minimum Interior Setbacks When One Building Per Lot:*

1. *Minimum Front Yard:* 20 feet from right-of-way
2. *Minimum Side Yard:*

   7 feet adjacent to interior lot line, except that up to a 7-foot encroachment and maintenance easement may be provided on adjacent parcels, in combination with or in lieu of a side yard, such that a minimum building separation of 14 feet is maintained.

   Zero if units are attached, for example, townhouses on separate lots of record

   15 feet adjacent to street

3. *Minimum Rear Yard:* 25 feet

J. *Minimum Accessory Structure Requirements:*

Single-Family and Two-Family Uses: Accessory structures may be located in the rear and side yards only but shall not be located within a minimum yard.

Townhouse accessory structures may be located within the side or rear yards only but not within minimum perimeter setbacks or minimum yards.

K. *Maximum Lot Coverage:* The area of the footprint of all buildings and parking shall not exceed 50 percent of the total land area.

L. *Minimum Building Separation When More Than One Building Per Lot:* All building separations shall be as specified by the Standard Building Code.

M. *Other Minimum Standards:*

1. No more than twenty dwelling units shall form a single building.
2. Setbacks and roof lines shall be varied by at least 2 feet so that no more than 3 adjoining dwellings within a single building shall have the same front setback or roof line.

7.2.4. *TR District Subdivision.* In the TR Zoning District, dwellings proposed to be sold with the lot upon which the dwelling is located shall comply with the Development Regulations of The City of Johns Creek.

7.2.5. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 7.3. A Medium Density Apartment District.

7.3.1. *A District Scope and Intent.* Regulations set forth in this Section are the A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The A District is intended to provide land areas for medium density apartment dwellings which will:

A. Encourage attractive apartment development;

B. Encourage the provision of recreation areas and facilities; and

C. Be located in areas of moderate to intense development near retail shopping, schools and major thoroughfares;

D. Be located so as to provide a transition between moderate density residential areas and high density residential areas or between moderate density residential areas and nonresidential areas.

7.3.2. *Use Regulations.* Within the A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling
2. Two-family dwelling
3. Triplex
4. Quadruplex
5. Townhouse
6. Multi-family dwelling
7. Rooming House and Boarding House
8. Convalescent Home/Nursing Home/Hospice
9. Personal Care Home
10. Medical Related Lodging

11. Group Residence

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

7.3.3. *Development Standards.*

A. *Height Regulations:* Buildings shall be no higher than 45 feet or 3 stories, whichever is higher, except when a use permit to exceed the maximum height is approved.

B. *Minimum Front Yard:* 40 feet from right-of-way

C. *Minimum Side Yard:*

25 feet adjacent to interior lot line

40 feet adjacent to street

D. *Minimum Rear Yard:* 25 feet

E. *Minimum Land Area or Lot Size Per Unit:* 2,000 square feet

F. *Minimum Width:* 200 feet throughout depth from front to rear lot line

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Maximum Density:* 14 units per gross acre

I. *Minimum Heated Floor Area Per Unit:*

Single-family: 1,100 square feet

Two-family: 800 square feet

Efficiency or Studio: 450 square feet

All other Multi-family: 700 square feet

J. *Minimum Accessory Structure Requirements:*

Single-Family and Two-Family Uses: Accessory structures may be located in the rear and side yards only but shall not be located within a minimum yard.

Multi-family Uses: Accessory structures may be located in the rear yard only but shall not be located within a minimum yard.

K. *Maximum Lot Coverage:* The area of the footprint of all buildings and parking shall not exceed 40 percent of the total land area.

L. *Minimum Building Separation:* All building separations shall be as specified by the Standard Building Code.

7.3.4. *"A" District Subdivision.* In the A Zoning District, dwellings proposed to be sold with the lot upon which the dwelling is located shall comply with the Development Regulations of The City of Johns Creek.

7.3.5. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 7.4. A-L Apartment Limited Dwelling District.

7.4.1. *A-L District Scope and Intent.* Regulations in this Section are the A-L District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The A-L District is intended to provide land areas for high to very high density apartment dwellings which will:

A. Encourage attractive apartment living opportunities;

B. Encourage the provision of recreation areas and facilities; and

C. Be located in areas of intense development near retail shopping, schools and major thoroughfares;

D. Be located so as to provide a transition between medium density residential areas and nonresidential areas.

7.4.2. *Use Regulations.* Within the A-L District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Multi-family dwelling.

2. Any use permitted in the A district.

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Accessory retail and service uses such as restaurants, gift shops, flower shops, snack bars, barber shops, and beauty shops shall be located wholly within principal buildings with no outdoor advertising.

7.4.3. *Development Standards.*

A. *Height Regulations:* Buildings shall be no higher than 60 feet or 4 stories, whichever is higher except when a Use Permit to exceed the maximum height is approved.

B. *Minimum Front Yard:* 40 feet

C. *Minimum Side Yard:*

Adjacent to interior side line: 20 feet

Adjacent to street side line: 40 feet

D. *Minimum Rear Yard:* 20 feet

E. *Minimum Width:* None

F. *Minimum A-L Lot Frontage:* 35 feet adjoining a street.

G. *Minimum Heated Floor Area:*

Three bedroom apartments: 700 square feet

Two bedroom apartments: 600 square feet

One bedroom apartments: 500 square feet

Efficiency or studio apartments: 400 square feet

H. *Minimum Accessory Structure Requirements:* Accessory structures shall not be located in the minimum front yard.

I. *Maximum Lot Coverage:* The area of the footprint of all buildings and parking shall not exceed 70 percent of the total land area.

J. *Minimum Building Separation:* All building separations shall be as specified by the Standard Building Code.

K. *Outdoor Recreation:* Outdoor area consisting of not less than 10 percent of the gross land area shall be provided for recreation.

7.4.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE VIII. OFFICE INSTITUTIONAL; MIXED USE DISTRICTS

Sec. 8.1. O-I Office Institutional District.

Sec. 8.2. MIX Mixed Use District.

Sec. 8.1. O-I Office Institutional District.

8.1.1. *O-I District Scope and Intent.* Regulations in this Section are the O-I District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The O-I District is intended to provide land areas for office and institutional uses where proximity to residential, public, commercial and other land uses, and existing and projected traffic patterns make it desirable to locate office and institutional uses.

8.1.2. *Use Regulations.* Within the O-I District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for the following purposes:

1. Single-family dwellings
2. Two-family dwellings
3. Rooming house and Boarding house
4. Art Galleries
5. Assembly Halls
6. Churches, Temples or Other Places of Worship
7. Clinics
8. Community Center Buildings
9. Convalescent Centers/Nursing Homes/Hospices
10. Dancing Schools
11. Day Care Facilities
12. Financial Establishments
13. Funeral Homes
14. Group Residences
15. Gymnasiums
16. Health Clubs/Spas
17. Hospitals

18. Hotels
19. Institutions of Higher Learning, Business Colleges, Music Conservatories, and Similar Institutions
20. Libraries
21. Motels
22. Museums
23. Offices
24. Parking Garages /Decks
25. Parking Lots
26. Personal Care Homes
27. Recording Studios
28. Research Laboratories
29. Stadiums
30. Thrift Institutions

B. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. No more than 25 percent of the total floor area of a building may be devoted to storage.

1. Accessory retail and service uses shall be located within a building with a majority of the floor area designed for office uses. Accessory uses shall be located wholly within the principal buildings with no outdoor advertising except that a car wash, detail shop or service station may be located inside a parking garage as long as such uses are not visible from the exterior of the parking garage.
2. Retail and service uses permitted shall be limited to employee convenience, business oriented retail, and service establishments such as computer hardware and software companies, commercial art, drafting, travel agencies, office equipment and supply stores, reproduction services, stenographic services, typing services, messenger services, delivery services, telecommunications sales and teleconferencing centers, personnel services and training centers, florists, gift shops, tailor shops, radio and television repair shops, shoe repair shops and barber or beauty shops. Restaurants are accessory whenever office and institutional floor area is at least 100,000 square feet. Fast food restaurants shall be limited to no more than 10 percent of the total floor area devoted to retail and service business uses, and shall not occupy more than 10 percent of any floor in a building. A drug store is accessory, provided only drugs, prescription medicines, medicinal supplies and pharmaceutical products shall be sold.

8.1.3. *Development Standards.*

A. *Height Regulations:* Buildings shall be no higher than 60 feet or 4 stories, whichever is higher, except when a Use Permit to exceed the maximum height is approved.

B. *Minimum Front Yard:* 40 feet

C. *Minimum Side Yard:*

40 feet adjacent to street

20 feet interior

D. *Minimum Rear Yard:* 25 feet

E. *Minimum Lot Area Per Dwelling:*

Single-family: 18,000 square feet

Two-family: 18,000 square feet

F. *Minimum Lot Width:* 100 feet for residential use only

G. *Minimum O-I Lot Frontage:*

100 feet adjoining a street

35 feet adjoining a street for residential uses

H. *Minimum Heated Floor Area:*

Single-family: 1,100 square feet Two-Family 800 square feet

I. *Minimum Accessory Structure Requirements:*

Single-family and Two-family Uses: Accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

Multi-family Use: Accessory structures shall not be located in the minimum front yard.

J. *Maximum Lot Coverage:* The area of the footprint of all buildings and parking shall not exceed 70 percent of the total land area.

8.1.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 8.2. MIX Mixed Use District.

8.2.1. *MIX District Scope and Intent.* Regulations in this Section are the MIX District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The MIX District is intended to encourage flexible, innovative and creative concepts in site planning and efficient use of land and to provide a stable multiple use environment compatible with surrounding uses. The MIX District is particularly encouraged in areas designated by the Comprehensive Plan Land Use Map as suitable for commercial (including retail, service commercial and office) uses and in Living-Working corridors.

8.2.2. *Use Regulations.* The MIX District mandates a residential component of single-family dwellings, duplexes, triplexes, quadruplexes, townhouses, multifamily dwellings or any combination thereof along with at least two of the following: commercial, office or institutional uses.

Within the MIX District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for the following purposes:

1. Single-family dwellings
2. Duplexes
3. Triplexes
4. Quadruplexes
5. Townhouses

6. Multifamily dwellings
7. Rooming houses and Boarding houses
8. Art Galleries
9. Assembly Halls
10. Car Washes, detail shops and/or service stations located inside a parking garage as long as such uses are not visible from the exterior of the parking garage.
11. Convalescent Centers/Nursing Homes/Hospices
12. Churches, Temples or Other Places of Worship
13. Clinics
14. Community Center Buildings
15. Dancing Schools
16. Day Care Centers
17. Financial Establishments
18. Funeral Homes
19. Group Residence
20. Gymnasiums
21. Health Clubs/Spas
22. Hospitals
23. Hotels
24. Institutions of Higher Learning including Business Colleges, Music Conservatories, and Similar Institutions.
25. Libraries
26. Museums
27. Offices
28. Parking Garages/Decks
29. Parking Lots
30. Personal Care Homes
31. Recording Studios
32. Research Laboratories
33. Retail and/or Service Establishments
34. Restaurants and/or Fast Food Restaurants
35. Stadiums
36. Theaters

B. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. No more than 25 percent of the total floor area of a building may be devoted to storage.

8.2.3. *Development Standards.*

A. *Height Regulations:* Structures shall be no higher than 60 feet, except with a Use Permit to exceed the maximum height.

B. *Minimum Development Front Yard:* As specified in conditions

C. *Minimum Development Side Yards:* As specified in conditions

D. *Minimum Development Rear Yard:* As specified in conditions

E. *Minimum Development Frontage:* 35 feet

F. *Minimum Internal Setbacks, Separations, Landscaping and Buffering Between Uses:* As specified in conditions

G. *Minimum Lot Area Per Dwelling Unit for Single-Family or Duplex:* As specified in conditions

H. *Minimum Lot Frontage for Single-Family or Duplex:* 20 feet adjoining a street

I. *Minimum Lot Width for Single-Family or Duplex:* None, unless specified in conditions

J. *Minimum Interior Setbacks for Single-family or Duplex:*

1. *Minimum Front Yard:* As specified in conditions
2. *Minimum Side Yard:* As specified in conditions
3. *Minimum Rear Yard:* As specified in conditions

K. *Minimum Building Separations:* All building separations shall be as specified by the Standard Building Code.

L. *Minimum Heated Floor Area Per Dwelling Unit:* As specified in conditions

M. *Minimum Accessory Structure Requirements:*

Single-family, duplex and townhouse accessory structures may be located in the rear or side yards only but shall not be located within a minimum yard.

Multifamily accessory structures shall not be located in the minimum front yard.

N. *Minimum Common Outdoor Area:* Twenty percent (20%) of the total site area shall be common outdoor area and shall be maintained by the property owner(s).

O. *Pedestrian Connectivity:* All components are required to be interconnected with pedestrian paths constructed of either colored/textured materials or conventional sidewalk materials and clearly identified.

P. *Parking:* Subject to the approval of the Director of Community Development, off-street parking as required by Article 18 may be reduced and shared parking among uses may be permitted.

8.2.4. *Other regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE IX. COMMUNITY BUSINESS DISTRICTS

Sec. 9.1. C-1 Community Business District.

Sec. 9.2. C-2 Community Business District.

Sec. 9.1. C-1 Community Business District.

9.1.1. *C-1 District Scope and Intent.* Regulations set forth in this Section are the C-1 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The C-1 District is intended to provide locations in which

neighborhood and community-oriented retail and service activities conclude a transition, or land areas which complement a transition into a more intense activity area. Complementary non-commercial uses are also permitted.

9.1.2. *Use Regulations.* Within the C-1 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Amusements, Indoor
2. Apartments, above or behind commercial and office uses in the same building
3. Art Galleries
4. Assembly Halls
5. Automotive Parking Lots
6. Automotive Specialty Shops
7. Catering, Carry-out and Delivery
8. Church, Temple or Other Place of Worship
9. Clinics
10. Convalescent Center/Nursing/Hospice
11. Day Care Facilities
12. Delicatessens
13. Financial Establishments
14. Funeral Homes
15. Garage, Automobile Repair except painting, body repair and overhaul of major components
16. Group Residences
17. Gymnasiums
18. Hotels
19. Health Club/Spa
20. Laundromats
21. Landscaping Business, Garden Center
22. Laundry and Dry Cleaning Shops
23. Lawn Service Businesses
24. Libraries
25. Communication Services
26. Millinery or Similar Trade whenever products are sold retail, exclusively on the site where produced.
27. Motels
28. Museums
29. Offices

30. Parking Garages/Decks
31. Parking Lots
32. Personal Care Homes
33. Personal Services including barber, beauty
34. Pet Grooming (No overnight stay)
35. Photography Studios
36. Plant Nurseries
37. Printing Shops, Convenience
38. Repair Shops not involving any manufacturing on the site
39. Research Laboratories
40. Restaurants
41. Retail Stores or Shops
42. School of Business, Dance, Music or similar schools
43. Service Stations except that repair and service offerings shall not include painting, body repair nor overhaul of major components, and no portion of the site shall be used for the display of cars for sale.
44. Stadiums
45. Theaters
46. Recycling Centers, Collecting

B. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Automobile and/or moving truck rental may be used in accessory only to an associated permitted use. Not more than 45 percent of the floor area of a building or land may be devoted to storage incidental to primary uses.

9.1.3. *Development Standards.*

A. *Height Regulations:* No structure shall exceed the higher of 4 stories or sixty 60 feet in height except as approved pursuant to Article XIX.

B. *Minimum Front Yard:* 40 feet

C. *Minimum Side Yard:*

25 feet for dwellings adjacent to interior lot lines

None for all other buildings. See 4.23 for buffer and landscape requirements.

40 feet for all buildings adjacent to streets

D. *Minimum Rear Yard:*

25 feet for dwellings adjacent to interior lot lines

None for all other buildings. See Section 4.23 for buffer and landscape requirements.

E. *Minimum Lot Area:*

Multi-family Dwellings including a unit above or behind a commercial use: 2,500 square feet

Single-family: 18,000 square feet.

Two-family: 18,000 square feet

All other buildings: no minimum

F. *Minimum Heated Floor Area Per Unit:*

Single-family: 1,100 square feet

Two-family: 800 square feet

Multi-family: 700 square feet

Efficiency: 450 square feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Accessory Structure Requirements:*

Single-Family and Two-Family Uses: Accessory structures may be located in the rear yard only but shall not be located within a minimum yard.

Other Use: Accessory structures shall not be located in the minimum front yard.

9.1.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 9.2. C-2 Community Business District.

9.2.1. *C-2 District Scope and Intent.* Regulations set forth in this Section are the C-2 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The C-2 District is intended to provide locations in which community and regionally-oriented retail and service activities conclude a transition, or locations which complement a transition into a more intense activity area. Complementary non-commercial uses are also permitted.

9.2.2. *Use Regulations.* Within the C-2 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Any Use Permitted in the C-1 District
2. Automotive Garage
3. Automotive Repair Garage
4. Automobile & Light Truck Sales/Leasing
5. Batting Cage, Outdoor
6. Bowling Alley
7. Car Wash
8. Check Cashing Establishment
9. Drive-in Theater
10. Garage, Automobile Repair

11. Landscaping Business
12. Lawn Service Business
13. Laundry and/or Dry Cleaning Plant Distribution Center. Not including processing, fabrication or manufacturing.
14. Pawn Shop
15. Plant Nursery
16. Plumbing Shop associated with retail sales
17. Radio and Television Stations
18. Service Establishments
19. Skating Rink
20. Tinsmithing Shop associated with retail sales

B. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any permitted use and dwellings may be used for a home occupation.

9.2.3. *Development Standards.*

A. *Height Regulations:* No structure shall exceed the higher of 4 stories or sixty 60 feet in height except as approved pursuant to Article XIX.

B. *Minimum Front Yard:* 40 feet

C. *Minimum Side Yard:*

25 feet for dwellings adjacent to interior lot lines

None for all other buildings. See 4.23 for buffer and landscape requirements.

40 feet for all buildings adjacent to streets

D. *Minimum Rear Yard:*

25 feet for dwellings adjacent to interior lot lines

None for all other buildings. See 4.23 for buffer and landscape requirements.

E. *Minimum Lot Area:*

Multiple Dwellings including a unit above or behind a commercial use: 2,500 square feet

Single-family: 18,000 square feet

Two-family: 18,000 square feet

All other buildings: no minimum

F. *Minimum Heated Floor Area:*

Single-family: 1,100 square feet

Two-family: 800 square feet

Multi-family: 700 square feet

Efficiency: 450 square feet

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Minimum Accessory Structure Requirements:*

Single-Family and Two-Family Uses: Accessory structures may be located in the rear yard only but shall not be located within a minimum yard.

Other Use: Accessory structures shall not be located in the minimum front yard.

9.2.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE X. INDUSTRIAL/LIGHT INDUSTRIAL DISTRICTS

Sec. 10.1. M-1A Industrial Park District.

Sec. 10.2. M-1 Light Industrial District.

Sec. 10.1. M-1A Industrial Park District.

10.1.1. *M-1A District Scope and Intent.* Regulations set forth in this Section are the M-1A District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The M-1A District is intended to provide land areas for the development of industrial parks which meet the needs for manufacturing, fabricating, processing, warehousing, distributing, research, office and related uses in an attractive environment.

10.1.2. *Use Regulations.* Within the M-1A District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as prohibited or allowed with approval of a Use Permit shall be permitted.

A. *Prohibited Uses.* Structures and land may be used for manufacturing, processing, warehousing, research, office and similar uses except as enumerated below or in Article XIX.

1. Bone Distillation
2. Dwelling
3. Fat Rendering
4. Incinerator
5. Manufacturing of:

Acetylene Gas

Acid

Ammonia

Asphalt

Bleaching Powder

Brick

Cement

Chlorine Gas

Coal Tar

Explosives

Fertilizers

Glue

Gypsum Board

Linoleum

Mineral Dye

Oil

Oilcloth

Paint

Paper

Paper Pulp

Patent Leather

Petroleum Products

Plaster of Paris

Pottery

Shellac

Terra Cotta

Tile

Turpentine

Varnish

Yeast

6. Mineral Extraction
7. Slaughter House
8. Smelting
9. Stockyard
10. Storage of Explosives
11. Animal Hides
12. Truck Terminal
13. Blast Furnace
14. Boiler Works
15. Ore Reduction

16. Rolling Mill
17. Tanning
18. Tar Distillation
19. Landfill, Inert Waste Disposal
20. Landfill, Solid Waste Disposal
21. Private Correction Facility

B. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any permitted use.

10.1.3. *Development Standards.*

A. *Height Regulations:* No structure shall exceed the higher of 4 stories or 60 feet in height except as approved pursuant to Article XIX.

B. *Minimum Front Yard:* 30 feet

C. *Minimum Side Yard:* None. See Section 4.23 for buffer and landscape requirements.

D. *Minimum Rear Yard:* None. See Section 4.23 for buffer and landscape requirements.

E. *Minimum Accessory Structure Requirements:* Accessory structures shall not be located in the minimum front yard.

F. *Rail Access:* Railroad spurs and service rails shall be permitted only within the side and rear yards.

G. *Minimum Lot Frontage:* 35 feet adjoining a street

H. *Maximum Lot Coverage:* The area of the footprint of all buildings shall not exceed 70 percent of the total land area.

10.1.4. *[Open.]*

10.1.5. *Nuisance Provisions.* The following provisions are intended to promote compatibility of the M-1A District with surrounding areas.

1. No activity shall be permitted which is offensive or hazardous to the workers in the area, or produces smoke, odor, noises, fumes, vibrations or other objectionable elements or emanations that may be detrimental to the health and safety of the citizens of the City of Johns Creek.
2. Accepted smoke and odor abatement practices shall be followed to eliminate objectionable smoke and odor, in so far as possible.

10.1.6. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

10.1.7. *Environmental Impact Report.* In accordance with Section 28.4.3.2, submit an Environmental Impact Report as required.

Sec. 10.2. M-1 Light Industrial District.

10.2.1. *M-1 District Scope and Intent.* Regulations in this Section are the M-1 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The M-1 District is intended to provide locations which meet the needs of processing, manufacturing, fabricating and warehousing, research and office uses, and related uses.

10.2.2. *Use Regulations.* Within the M-1 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as prohibited or allowed with approval of a Use Permit shall be permitted.

Structures and land may be used for manufacturing, processing, warehousing, distribution, research, office and similar uses except as enumerated below or in Article XIX.

A. *Prohibited Use:*

1. Blast Furnace
2. Boiler Works
3. Bone Distillation
4. Dwelling
5. Fat Rendering
6. Incinerator
7. Manufacturing of:

Acetylene Gas

Acid

Ammonia

Asphalt

Bleaching Powder

Brick

Chlorine Gas

Cement

Coal Tar Explosives

Fertilizer

Glue

Gypsum Board

Linoleum

Oil

Oilcloth

Mineral dye

Paint

Paper

Paper Pulp

Patent Leather

Petroleum Products

Plaster of Paris

Pottery

Shellac

Terra cotta

Tile

Turpentine

Varnish

Yeast

8. Mineral Extraction
9. Ore Reduction
10. Rolling mill
11. Slaughter House
12. Smelting
13. Stockyard
14. Storage of Explosives
15. Animal Hides
16. Tanning
17. Tar Distillation
18. Truck Terminal
19. Landfill, Solid Waste Disposal

B. *Accessory Uses:* Structures and land may be used for uses customarily incidental to any permitted use. Sexually oriented businesses are hereby established as permitted uses within the M-1 and M-1A Districts only, and said M-1 and M-1A District regulations are hereby amended to add the following subsection "C" to the regulations for each of said M-1 and M-1A Districts:

"(C) Permitted Uses: Sexually Oriented Businesses."

"Sexually oriented businesses are permitted uses within the M-1 and M-1A Districts, only. Such uses are prohibited as uses in any and all other zoning districts."

Sexually Oriented Businesses.

(a) *Preamble.*

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, the City Council finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, there is documented evidence of sexually oriented businesses, including adult bookstores and adult video stores, manipulating their inventory and/or business practices to avoid regulation while retaining their essentially "adult" nature. See, e.g. City of New York v. Hommes, 94 N.Y.2d 267: 724 N.E.2nd 368 (N.Y. 1999): For the People Theatres of N.Y., Inc. v. City of New York, 793 N.Y. S.2d 356; 2005 N.Y. App. Div. LEXIS 3743 (April 12, 2005): Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-166. Memorandum Decision and Order (D. Colo. March 31, 2001) (finding "plaintiff's argument that it is not an adult entertainment establishment frivolous as best"): Taylor v. State, 202 Tex. App. LEXIS 5381 (Tex. App. 2002) (noting that "the nonadult video selections appeared old and several of its display cases were covered with cobwebs"): Illinois v. Lions' Den, Inc., June 10, 2005, Circuit Court of Fourth Judicial Circuit. Effingham County, Ill., Case 04-CH-26 (noting that "the accuracy and credibility" of the evidence on inventory in a Lion's Den was suspect, and that testimony was "less than candid" and "suggested an intention to obscure the actual amount of sexually explicit material sold");

WHEREAS, the City intends to regulate such businesses as sexually oriented businesses through a narrowly tailored ordinance designed to serve the substantial government interest in preventing the negative secondary effects of sexually oriented businesses;

WHEREAS, the City's regulations shall be narrowly construed to accomplish this end;

WHEREAS, with the passage of any Ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Georgia Constitutions, Georgia Code, and the Georgia Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent of the City to suppress any speech activities protected by the U.S. Constitution or the Georgia Constitution, but to enact legislation to further the content-neutral governmental interest of the City, to wit, the controlling of secondary effects of sexually oriented businesses.

(b) *Purpose.* It is the purpose of the Johns Creek zoning ordinance to regulate land use by sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(c) *Rationale and Findings.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002): City of Erie v. Pap's A.M., 529 U.S. 277 (2000): City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 427 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., U.S. 560 (1991): California v. LaRue, 409 U.S. 109 (1972); and Artistic Entertainment, Inc. v. City of Warner Robins, 331 F.3d 1196 (11th Cir. 2003): Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306 (11th Cir. 2000); Williams v. Pryor, 240 F.3d 944 (11th Cir. 2001); Williams v. A.G. of Alabama, 378 F.3d 1232 (11th Cir. 2004); Gary v. City of Warner Rosins, 311 F.3d 1334 (11th Cir. 2002); Ward v. County of Orange, 217 F.3d 1350 (11th Cir. 2002); Boss Capital, Inc. v. City of Casselberry, 187 F3d 1251 (11th Cir. 1999); David Vincent, Inc. v. Broward County, 200 F.3d 1325 (11th Cir. 200); Sammy's of Mobile, Ltd. V. City of Mobile, 140 F.3d 993 (11th Cir. 1998); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999): This That And The Other Gift and Tobacco, Inc. v. Cobb County, 285 F.3d 1319 (11th Cir. 2002): DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Grand Faloon Tavern, Inc. v. Wicker, 670 F.2d 943 (11th Cir. 1982); International Food & Beverage Systems v. Ft. Lauderdale, 794 F.2d 1520 (11th Cir. 1986); Gammon v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004): Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); and Fairfax MKI, Inc. v. City of Clarkston, 274 Ga. 520 (2001); Morrison v. State, 272 Ga. 129 (2000); Sewell v. Georgia, 233 S.E.2d 187 (Ga. 1977), dismissed for want of a substantial federal question, 435 U.S. 982 (1978) (sexual devices); Flippen Alliance for Community Empowerment, Inc. v. Brannan, 601 S.E.2d 106 (Ga. Ct. App. 2004); Oasis Goodtime Emporium I, Inc. v. DeKalb County, 272 Ga. 887 (2000); Chamblee Visuals, LLC v. City of Chamblee, 270 Ga. 33 (1998): World Famous Dudley's Food & Spirits, Inc. v. City of College Park, 265 Ga. 618 (1995); Airport Bookstore, Inc. v. Jackson, 214 (1978); And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986: Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997: Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Montrose, Illinois - 2005; Kennedale, Texas - 2005; American Planning Association - 2001; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota).

The City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

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

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance exists independent of any comparative analysis between sexually oriented and non-

sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(d) *Definitions and Standards.* Sexually oriented businesses are subject to the following definitions, standards and additional standards.

A. "Sexually Oriented Business" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theatre," a "semi-nude model studio," a "sexual device shop," or a "sexual encounter center."

B. "Adult Bookstore or Adult Video Store" means a commercial establishment which, as one of its substantial business activities, offers for sale or rental for any form of consideration any one or more of the following items: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specialized sexual activities" or "specified anatomical areas." A "substantial business activity" exits where the commercial establishment meets any one or more of the following criteria:

(1) At least 25% of the establishment's displayed merchandise consists of the foregoing items, or

(2) At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items, or

(3) At least 25% of the retail value of the establishment's displayed merchandise consists of the foregoing items, or

(4) At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items, or

(5) The establishment devotes at least 25% of its interior business space or, if less than 25%, devotes at least five hundred square feet (500 sq. ft.) of its interior business space, to the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space"), or

(6) The establishment regularly offers for sale or rental at least one thousand (1000) of the foregoing items and limits access to the premises or to the portion of the premises occupied by said items to adults only; or

(7) The establishment regularly advertises itself or holds itself out, using "adult," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests.

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

C. "Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly feature persons who appear semi-nude.

D. "Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

E. "Semi-Nude Model Studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

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

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

c. In a structure:

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

2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

F. "Semi-Nude or State of Semi-Nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a bikini, dress, blouse, shirts, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

G. Nudity or a State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

H. "Sexual Device Shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

I. "Sexual Device" means any three (3) dimensional object designed and marketed or stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

J. "Sexual Encounter Center" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling, or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

K. "Characterized by" means describing the essential character or quality of an item. As applied in this ordinance, no use shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

L. "City" means the City of Johns Creek, Georgia.

M. "Operate or Cause to Operate" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

N. "Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

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

P. "Regularly" means and refers to the consistent and repeated doing of the act so described.

Q. "Specified Anatomical Areas" means and includes:

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

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

R. "Specified Criminal Activity" means:

(1) Any of the following specified offenses for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

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

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

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

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

(2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses.

S. "Specified Sexual Activity" means any of the following:

(a) Intercourse, oral copulation, masturbation or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in (1) above.

T. "Viewing Room" shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video production.

U. Additional Standards for Sexually Oriented Businesses.

1. All boundary lines of the property on which any sexually oriented business is or proposes to be located, (hereinafter the "Property," "Subject Property," or "Site") must be located at least 1,000 feet from the properties listed below:

i. The property line of R-1, R-2, R-2A, R-3, R-3A, R-4A, R-4, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1 zoned property or property conditioned or used for residential purposes.

ii. The property line of any public recreational facilities, public or private institutional uses, including but not limited to churches, schools, universities, colleges, trade schools, libraries, day care centers and other training facilities where minors are the primary patrons.

2. All property lines of the sexually oriented business property must be located at least 1,500 feet from any property line of any other Sexually Oriented Business.

3. All sexually oriented businesses shall submit with the application for a building or occupancy permit, a certified boundary survey by a licensed surveyor of the site and the property lines of surrounding properties identifying the use of properties at or within 1,000 feet of the boundary lines of the subject property, and any and all sexually oriented businesses within 1,500 feet of the boundary line of the subject property.

4. If the actual or proposed sexually oriented business is to be located in an existing structure where a land disturbance permit is not required, an existing building permit review application must be filed and determined by the environment and community development department to be in compliance with the terms of this ordinance prior to any occupancy.

5. Permitted curb cut access shall only be directly from a major thoroughfare.

6. No actual or depicted specified anatomical areas or specified sexual activities shall be visible from outside the structure or on signage outside the structure.

7. The minimum landscape areas required for the O-I zoning district as specified in section 4.23 shall be required. Where buffers are required, the underlying zoning district buffer standards shall apply.

8. No final land disturbance permit, building permit, certificate of occupancy, or building permit review certificate may be issued until the approved Sexually Oriented Business License for the business is filed with the Director of the Environment and Community Development Department.

9. All parts of the Building housing the Sexually Oriented Business shall be located a minimum of 50 feet from all property lines.

10. Parking spaces at a ratio of ten per 1,000 gross square feet of floor space shall be provided.

11. Any untrue or misleading statements or representations made on any application or document submitted to the City of Johns Creek in connection with an actual or proposed use of land for a Sexually Oriented Business shall be grounds for the refusal or revocation of any permit or certificate of occupancy relating to said land use, under such procedures as may now or hereafter be provided by law for the refusal or revocation of such permit or certificate.

10.2.3. *Development Standards.*

A. *Height Regulations:* Whenever uses or structures permitted in the M-1 District adjoin a Dwelling District, structures shall be set back at least 12 additional feet for each foot of height in excess of 50 feet.

Otherwise, no structure shall exceed the higher of 8 stories or 100 feet in height.

B. *Minimum Front Yard:* 40 feet

C. *Minimum Side Yard:* None. See Section 4.23 for buffer and landscape requirements.

D. *Minimum Rear Yard:* None. See Section 4.23 for buffer and landscape requirements.

E. *Minimum Lot Area:* None

F. *Minimum Accessory Structure Requirements:* Accessory structures shall not be located within the minimum front yard.

G. *Minimum Lot Frontage:* 35 feet adjoining a street

10.2.4. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

10.2.5. *Environmental Impact Report.* In accordance with Section 28.4.3.2, submit an Environmental Impact Report as required.

ARTICLE XI. COMMUNITY/NEIGHBORHOOD/MOBILE HOME DISTRICTS

Sec. 11.1. CUP Community Unit Plan District.

Sec. 11.2. NUP Neighborhood Unit Plan District.

Sec. 11.3. MHP Mobile Home Park District.

Sec. 11.1. CUP Community Unit Plan District.

11.1.1 *CUP District Scope and Intent.* Regulations in this Section are the CUP District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The CUP District identifies land areas for a variety of housing types within a planned community setting.

The CUP District is intended to:

A. Encourage the development of large tracts of land as planned communities.

B. Encourage flexible and creative concepts in site planning.

C. Preserve the natural amenities of the land by encouraging scenic and functional open areas.

D. Provide for an efficient use of land.

E. Provide a stable residential environment compatible with surrounding residential areas.

F. Protect neighboring properties by requiring larger peripheral lots adjacent to larger lot developments.

11.1.2. *Use Regulations.* Within the CUP District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling
2. Two-family dwelling
3. Triplex
4. Quadruplex
5. Townhouse
6. Multi-family Residential
7. Day Care facility located in a Multi-family or community building, or place of worship

8. Golf, country club, pool and recreation court
9. Community facilities
10. Churches, Temples or Other Places of Worship

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Retail and service uses, and clubs accessory to recreation facilities are allowed subject to the following conditions:

1. Accessory retail and service uses shall be located wholly within a building with a majority of the floor area designed for recreation uses. No outdoor advertising is allowed.
2. Retail and service uses shall be limited to convenience retail and service establishments such as pro shops and personal services. Restaurants accessory to a club are allowed.

11.1.3. *Development Plan.* The development plan shall be the zoning control document for features depicted graphically. The site plan requirement applicable to rezoning requests shall be adhered to for CUP rezoning requests. Administrative guidelines for preparing site plans are available from the Director of the Community Development Department. A site plan shall become the development plan if the request to rezone is approved without changes or additions. If the approval by the Board differs, in any way, from what is depicted on the site plan submitted for the purpose of seeking rezoning, a revised plan must be certified by the Community Development Department before development related permits may be issued. A site plan or development plan shall not substitute for plans which are required as a prerequisite for applying for development related permits. The location of all use areas shall be shown on the development plan, and location on the ground shall be as shown on the development plan.

11.1.4. *Development Standards.*

A. *Height Regulations:* No single-family residential dwellings or accessory structures shall exceed 40 feet in height. The height of all other structures are as approved per the conditions of zoning

B. *Minimum Land Area Per Unit:* As specified in conditions

C. *Minimum Lot Area Per Unit:* As specified in conditions

D. *Minimum CUP Size:* 10 contiguous acres

E. *Maximum Density:*

Multi-family: 9.0 units per gross acre.

Single-family: 5.0 units per gross acre.

F. *Minimum Lot Width:* None, unless specified in conditions

G. *Minimum CUP Development Frontage:* 35 feet

H. *Minimum Lot Frontage:* 20 feet adjoining a street

I. *Minimum Heated Floor Area Per Unit:* As specified in conditions

J. *Minimum Perimeter Setback—Entire CUP Development:* As specified in conditions

K. *Minimum Interior Setbacks—Single-family Lots:*

1. *Minimum Front Yard:* As specified in conditions
2. *Minimum Side Yard:* As specified in conditions
3. *Minimum Rear Yard:* As specified in conditions

L. *Minimum Accessory Structure Requirements:*

Single-Family and Two-Family Uses: Accessory structures may be located within the side or rear yards subject to perimeter and minimum yard setbacks.

Multi-family Uses: Accessory structures may be located in the rear yard only but shall not be located within a minimum yard.

M. *Minimum Building Separation—More Than One Dwelling Per Lot:* All building separations shall be as specified by the Standard Building Code.

N. *Other Minimum Standards:*

1. Setbacks and roof lines shall be varied by at least 2 feet so that no more than 3 adjoining dwelling units within a single building shall have the same front setback or roof line.
2. Open Space consisting of not less than 550 SF per unit shall be provided for passive and/or recreational uses in all developments of 20 or more acres."
3. Land area proposed for open space or recreation shall be allocated among the use areas in proportion to the ratio of a neighborhood population to the total CUP population so that acreage devoted to open space is reasonably accessible to all residents.
4. Multi-family uses shall not be located along the perimeter except adjacent to or across a street from an existing multifamily or more intense use.
5. Agreements, covenants, declarations and other contracts which govern the use, maintenance, and protection of a CUP development among its owners areas shall be part of the official zoning file, and changes thereto shall have no force and effect until a copy has been provided to the Director of the Community Development Department.
6. Multi-family units shall not exceed 25 percent of the total number of dwelling units in a CUP.

11.1.5. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 11.2. NUP Neighborhood Unit Plan District.

11.2.1. *NUP District Scope and Intent.* Regulations set forth in this Section are the NUP District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The NUP District is intended to provide land areas devoted to low to medium density single-family residential uses of 5 or fewer units per acre consistent with the densities ranges suggested on the Comprehensive Plan Land Use Map. The NUP District is intended to 1) encourage the development of medium sized tracts of land as planned neighborhoods or the development of vacant parcels of land with transitional densities in built-up areas, 2) encourage the preservation of trees and vegetation, and to 3) encourage innovative site planning. Land proposed for a NUP shall comply with the following standards:

A. Provide a density that is consistent with the plan densities and surrounding properties.

B. Protect neighboring properties by requiring peripheral setbacks and development standards compatible with adjacent developments as required by the district standards and the conditions of zoning.

11.2.2. *Use Regulations.* Within the NUP District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for only the following purposes:

1. Single-family dwelling

2. Recreation facilities associated with single-family development

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation.

11.2.3. *Development Plan.* The development plan shall be the zoning control document for features depicted graphically. The site plan requirement applicable to rezoning requests shall be adhered to for NUP rezoning requests. Administrative guidelines for preparing site plans are available from the Director of the Community Development Department. A site plan shall become the development plan if the request to rezone is approved without changes or additions. If the approval by the Board differs, in any way, from what is depicted on the site plan submitted for the purpose of seeking rezoning, a revised plan must be certified by the Community Development Department before development related permits may be issued. A site plan or development plan shall not substitute for plans which are required as a prerequisite for applying for development related permits. The location of all use areas shall be shown on the development plan, and location on the ground shall be as shown on the development plan.

11.2.4. *Development Standards.*

A. *Height Regulations:* No building shall exceed 40 feet in height.

B. *Minimum Lot Area Per Unit:* 4,000 square feet

C. *NUP Size:*

Minimum 4 contiguous acres

Maximum 12 contiguous acres

D. *Maximum Density:* 5 units per gross acre

E. *Minimum Lot Width:* None unless specified in conditions

F. *Minimum Development Frontage:* 35 feet

G. *Minimum Lot Frontage:* 20 feet adjoining a street

H. *Minimum Heated Floor Area Per Unit:* 1000 square feet detached

I. *Minimum Perimeter Setback for the Entire NUP Development:* When adjacent to single-family zoning/use or AG-1 zoned property, a 40-foot setback shall be provided around the periphery of the development including access drives serving more than one lot, principal and accessory structures and swimming pools. Other yard improvements and access/utility crossings are permitted.

J. *Minimum Interior Setbacks:*

1. *Minimum Front Yard:* As specified in conditions

2. *Minimum Side Yard:* As specified in conditions

3. *Minimum Rear Yard:* As specified in conditions

K. *Minimum Interior Building Separations:* To place a building along an interior side lot line at between zero and 7 feet shall require an encroachment and maintenance easement allowing a minimum of 7 feet of access to such buildings. A minimum building separation of 14 feet shall be maintained.

L. *Minimum Accessory Structure Requirements:* Accessory structures may be located in rear or side yards, but shall not be located within a minimum rear yard except that detached garages may locate along a rear lot line at between zero and 7 feet with an encroachment and maintenance easement allowing a minimum of 7 feet of access to the garage.

M. Open Space consisting of not less than 225 SF per unit shall be provided for passive and/or recreational uses in all developments of 8 or more acres.

11.2.5. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

Sec. 11.3. MHP Mobile Home Park District.

11.3.1. *Scope and Intent.* Regulations set forth in this Section are the MHP District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permit or Use Permit. The MHP District is provides minimum design standards for Mobile Home Parks.

The MHP District is intended to:

A. Provide a desirable living environment.

B. Require the provision of usable open space and recreational areas, and

C. Be located in areas which are served by public sanitary sewer or be located in a drainage basin which is identified for sanitary sewer within 2 years.

D. Have access to an arterial street.

E. Be located on sites which have a high potential for tree retention and utilization of natural terrain.

11.3.2. *Use Regulations.* Within the MHP District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by Administrative Permit or Use Permit shall be prohibited.

A. *Permitted Uses.* Structures and land may be used for:

1. Mobile Homes

2. Grocery Store with a maximum of 2,500 square feet when approved as part of the development plan

3. Laundromat and coin operated dry cleaning when approved as part of the development plan

4. Day Care Facility

B. *Accessory Uses.* A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. The sale or display of mobile homes shall be accessory as long as each mobile home offered for sale is located on its individual lot and connected to all utilities.

11.3.3. *Application.* Applications for rezoning to MHP shall, in addition to the required submittal routinely required by the Director of the Community Development Department, be supported by:

A. A copy of the rules and regulations of the proposed mobile home park.

B. A copy of any proposed covenants.

C. A proposed maintenance plan for lawns, shrubbery, trees, recreation areas, and other natural areas.

11.3.4. *Development Plan.* The development plan shall be the zoning control document for features depicted graphically. The site plan requirement applicable to rezoning requests shall be adhered to for MHP rezoning requests. Administrative guidelines for preparing site plans are available from the Director of the Community Development Department. A site plan shall become the development plan

if the request to rezone is approved without changes or additions. If the approval by the Board differs, in any way, from what is depicted on the site plan submitted for the purpose of seeking rezoning, a revised plan must be certified by the Community Development Department before development related permits may be issued. A site plan or development plan shall not substitute for plans which are required as a prerequisite for applying for development related permits. The location of all proposed structures (excluding mobile or modular homes) shall be as shown on the development plan, adopted at the time of zoning approval, and actual location on the ground shall be as shown on the development plan.

11.3.5. *Development Standards.*

A. *Height Regulations:* Structures shall be no higher than 35 feet or 2 and 1/2 stories, whichever is higher.

B. *Minimum Land Area:* 20 contiguous acres

C. *Minimum MHP Width:* Not less than 400 feet throughout

D. *Minimum Site Area Per Unit:* 4,000 square feet

E. *Minimum Frontage for the Entire MHP Development:* 200 feet on an arterial or a road within 600 feet of an arterial

F. *Minimum Perimeter Buffers for the Entire MHP:*

Road Frontage: 100 feet

All other: 50 feet

G. *Maximum Density:* 5.5 units per gross acre plus additional density for features below:

Feature Additional Density:

1) Day care center: .2 units per acre

2) Supervised recreation: .2 units per acre

3) Neighborhood center: .2 units per acre

4) Unit carports or garages: .2 units per acre

11.3.6. *Requirements for Individual Unit Locations.* Each mobile home shall be located on a separate site which shall be identified by a marker at each corner. It is not required that individual sites be surveyed. Minimum requirements for individual sites are as follows:

A. *Minimum Width:* 44 feet

B. *Minimum Size:* 4,000 square feet

C. *Minimum All Weather Patio:* 300 square feet

D. *Minimum Enclosed Storage:* 125 cubic feet

E. *Minimum Interior Street Setback:* 15 feet from pavement

F. *Minimum Unit Separation:* 20 feet

11.3.7. *Minimum Improvements Required.*

A. *Access, Streets, Drainage and Walks.* Each mobile home park shall have a minimum of 2 primary access streets which shall be paved to a minimum width of 30 feet. Other streets within a mobile home park shall be paved to a minimum width of 24 feet.

B. *Walkways.* All-weather pedestrian walks shall be provided throughout a mobile home park.

C. *Construction Standards.* Streets and drainage structures shall be constructed in accordance with the minimum standards available from the City of Johns Creek Department of Public Works.

D. *Underground Utilities Required.* All utilities shall be placed underground. A central television antenna system shall be provided.

E. *Lighting.* Streets and walkways shall be lighted.

F. *Unit Refuse Collection Facilities.* Each mobile home site shall be provided with water-tight and rodent proof refuse container(s) having a capacity of at least 50 gallons.

G. *Common Refuse Collection Facilities.* Dumpsters or similar devices shall be provided for every 30 units or fraction thereof in excess of 15. Such central collection facilities shall be screened from view and shall not be located more than 400 feet from any mobile home served.

H. *Water and Wastewater.* Each unit shall be served by public water and sanitary sewer.

I. *Laundry Facilities.* Central laundry facilities shall be provided at the rate of 1 standard-size washing machine and dryer for each 25 units or fraction in excess of 11 units. Laundry facilities shall be located not more than 800 feet from the units served.

J. *Public Telephones.* Public telephones shall be provided at convenient locations.

K. *Fire Protection.* Fire hydrants shall be located throughout the park in accordance with standards of the Fire Marshal. Each unit shall be equipped with a fire extinguisher type approved by the Fire Marshal of Fulton County.

L. *Landscaping.* Each mobile home park shall be landscaped with shade trees, shrubs and grass. Landscaping shall be in accordance with a landscaping plan which has been approved by the Community Development Department.

M. *Recreation Facilities.* At a minimum, 10 percent of the gross acreage of a mobile home park shall be provided for common open space and recreation for the residents of the mobile home park.

11.3.8. *Other Minimum Standards.*

A. Within 30 days of being located in a mobile home park, the undercarriage shall be screened from view.

B. At least 400 square feet of common area shall be provided per unit for the storage of boats, travel trailers and other vehicles. This common storage area shall be enclosed by a fence and screened from view from all units and streets.

11.3.9. *MHP District Subdivision.* Individually divided lots are not allowed in the MHP District. All other divisions shall comply with the Development Regulations of The City of Johns Creek.

11.3.10. *Other Regulations.* All other applicable regulations must be satisfied prior to development under this zoning district.

ARTICLE XII-A. RESERVED

ARTICLE XII-E. COMMUNITY STANDARDS [2]

Sec. 12E.1. Purpose and Intent.

Sec. 12E.2. Community Standards Use Regulations.

Sec. 12E.3. Development Standards.

Sec. 12E.4. [Reserved.]

Sec. 12E.5. Miscellaneous Provisions.

Sec. 12E.6. Conflicts with Other Provisions of Zoning Ordinance.

Sec. 12E.7. Interpretation, Violations, Enforcement and Penalty Provisions.

Sec. 12E.8. Severability.

Sec. 12E.9. Appeals.

Sec. 12E.10. Adoption and Effective Date.

Sec. 12E.1. Purpose and Intent.

The Mayor and City Council of the City of Johns Creek, Georgia hereby declares it to be the purpose and intent of this Ordinance to establish a uniform procedure and regulations for providing for the protection, enhancement, preservation, unity of design, and use of places, sites, buildings, structures, streets, neighborhoods, and landscape features in the City of Johns Creek in accordance with the provisions herein.

This Ordinance is adopted as part of a strategy designed to promote the health, safety, order, prosperity, and general welfare of the citizens of the City of Johns Creek through the regulation of design, aesthetics, location, bulk, size of buildings and structures, and the density and distribution of population.

This Ordinance also seeks to reduce congestion on the streets; to provide safety from fire, flood and other dangers; provide adequate light and open space; protect the natural environment, to provide and protect greenspace and address other public requirements, in order to provide sustainable development that involves the simultaneous pursuit of economic prosperity, environmental protection and social quality.

This Ordinance also seeks, among other things, to promote accepted design principles in areas of new development and redevelopment, to raise the level of community understanding and expectation for quality in the built environment, to protect and enhance local aesthetic and functional qualities, and to stimulate business and promote economic development.

In consideration of the character of the City of Johns Creek, these regulations are to monitor the suitability for certain uses, construction and design, prevent functional and visual disunity, promote desirable conditions for community and commerce and protect property against blight and depreciation.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.2. Community Standards Use Regulations.

The Community Standards applies to all properties (except single-family detached dwelling developments) unless otherwise noted, in the City of Johns Creek. Within the Community Standards, land and structures shall be used and constructed in accordance with the standards of the underlying district. In the case of redeveloping properties or buildings, the Community Standards shall apply to all new construction.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.3. Development Standards.

A. *Landscaping.*

1.

1. No utilities should be located within landscape strips, including retention and water quality ponds. Utilities may cross the landscape strip perpendicularly. This excludes overhead utilities.

B. *Screening.*

1. Accessory site features located on the ground shall be screened from view from any public right-of-way, any residential use, or any residential or AG-1 zoning category by one of the following: placement behind the building, 100% opaque fencing, berm or vegetative screen planted to buffer standards.
2. Flat roofs, roof mounted equipment and other accessories shall be screened from view from the public rights-of-way, residential uses or any residential or AG-1 zoning category by a parapet, gable roof, roof screen, an architectural feature. Roof equipment and roof screens shall be finished to match the roof or parapet wall. When the relationship between building roofs and adjoining public streets and/or residential developments make screening of roof equipment impossible (e.g. road higher than roof), a parapet of no less than four feet in height shall be installed.
3. Refuse areas and receptacles shall be placed in the least visible location from public streets and shall be enclosed on 3 sides with opaque walls. The walls shall be made out of exterior building materials allowed in section [12E.3.D.1.] The 4th side shall be an opaque gate. Opaque walls shall be a minimum of 12 inches higher than the receptacle. Refuse receptacles shall not be placed within 50 feet of an existing residential or AG-1 (Agricultural) zoning district.
4. Loading areas shall be screened from the public rights-of-way, any residential use, or any residential or AG-1 zoning category by placement behind the main building, and with fencing, vegetation or vegetation and earthen berms that are no less than 5 feet in height at the time of planting.
5. All parking areas shall be screened from view from the public right-of-way with earthen berms and/or evergreen shrubs planted at a height of no less than 36" as measured from the top of curb of the parking areas.
6. Fencing and wall materials along public streets and side yards are restricted to wood privacy fence, wrought iron, powder coated aluminum, brick, stone, iron, or white wood picket fences, except on AG-1 zoned land used for agricultural purposes, where chain link and barbwire fences are allowed in accordance with Article 4.11.
7. Chain link fencing may be used along golf courses, play fields, other recreational areas and detention/retention facilities. All chain link fencing shall be black or hunter green vinyl coated.
8. Chain link fencing, where allowed, shall be screened from right-of-way and residentially-zoned property with no less than one continuous row of evergreen shrubs with a height of 3 feet at time of planting. Chain link fences on AG-1 zoned land used for agricultural purposes shall be exempt from screening requirements.
9. Retaining walls, if visible from the right-of-way or adjacent residentially-zoned property, must be faced with brick, stone or cast stone. Decorative walls or retaining walls shall be allowed in the landscape strip, provided that they are faced with brick or stacked stone to match the architectural building theme.

(Ord. No. 2010-09-18, 9-27-2010)

C. *Pedestrian and Bicycle Circulation.*

1. Five-foot wide concrete sidewalks are required along all public road frontages.
2. Hard surface multi-purpose paths and greenways, a minimum of 8 feet, may be substituted in lieu of sidewalk. Multi-purpose paths and greenways may be located either within the landscape strip or within the public right-of-way as approved by the Director of Public Works.
3. Pedestrian paths are required from the public sidewalk to the main entrance of the principle use. Truck loading and parking areas of industrial and warehouse-distribution uses are exempted from this requirement.

4. Pedestrian paths shall be indicated on the site plan submitted at the time of application for a Land Disturbance Permit.
5. Street furniture shall be located outside the specified width of any pedestrian path and sidewalk.
6. Pedestrian paths shall be a minimum width of five feet.
7. Pedestrian paths shall be connected to signalized crosswalks where applicable.
8. Pedestrian paths shall be designed to minimize direct auto-pedestrian interaction.
9. Pedestrian paths should be direct and convenient routes between points of origin (such as a bus stop) and destination (such as a shop, bank, etc).

D. *Building Materials and Architectural Treatments.*

1. The exterior building materials of all nonresidential building facades shall consist of a minimum of 75% (per vertical wall plane) of the following: brick, natural or pre-cast stone, or glass. Pre-cast concrete may be used for industrial, multi-story office (3-stories or greater) or hotel development.
2. Smooth, split face and/or rib faced concrete masonry units, aluminum siding, vinyl siding, and corrugated steel are prohibited as exterior building materials (except mechanical penthouses and roof screens) if visible from a public street or adjacent property used or zoned for single-family detached dwellings or AG-1 (Agricultural) zoning district.
3. The exterior building materials of all attached residential building facades shall consist of a minimum of 50% brick or natural or pre-cast stone. The balance of each building elevation may be stucco, wood, wood shake or fiber-cement siding.
4. Burglar bars, steel gates, fiberglass awnings and steel-roll down curtains are prohibited except at the structure's rear. Burglar bars are prohibited on the rear if visible from a public street. Burglar bars are also prohibited on the rear of an outparcel building if visible from the main structure.
5. The principle entry area of a building or if in a shopping center the largest tenant or a central location of a group of buildings shall be articulated and should express greater architectural detail than other portions of the building.
6. Buildings shall include at least one architecture element such as columns, arcades, covered entry-walkways, arches, facade offsets, windows, balconies, offset walls, clock towers, cupolas and/or courtyards.

7. Permitted colors for all buildings except single-family detached dwellings are as listed in Table 12E.4.D. The colors are listed under the PANTONE® system, which is known as the standard language for color communication across a variety of industries.

   Glass, natural stones and sign face are excluded from the color requirements. All whites, greys and blacks are allowed.

Table 12E.4.D. Permitted Colors

Base Colors For walls, roof, sign structures and building elements	Accent Colors for accent and decorative elements
400U through 403U 406U through 409U 413U and 414U	5467C 553C 5535C

Browns, Beiges and Tans 462 C to 468 C 4625 C to 4685 C 469 C, 474C, 475 C 4695 C to 4755 C 478 C, 719 C to 724 C 725 C to 731 C 476U to 482U 719U to 725U 726U to 732U Reds 168 C, 181 C 483 C, 484 C 1685C, 4975 C Red-Browns 154 U, 1395 U 1405 U 434U, 435U and 436U Warm Grey 1U through 5U Warm Grey 6U, 7U and 8U Cool Grey 1U through 4U 454U 4545U 467U and 468U 4655U, 4665U, 4675U and 4685U 4735U, 4745U and 4755U 480U, 481U and 482U 4645U, 4655U and 4665U 5855U, 5865U and 5875U 649U and 650U 719U and 720U 726U and 727U 7407U 7499U through 7502U 7506U 7527U, 7528U and 7529U 7534U, 7535U and 7536U	5605C 5743C 871C, 872C and 873C 8003C and 8021C 1545U 161U 175U 295U and 296U 343U 349U and 350U Warm Grey 9U, 10U and 11U Black 2U through 7U 4625U 476U, 477U and 478U 5535U 730U and 731U 7483U and 7484U 7503U, 7504U and 7505U 7517U, 7518U and 7519U 7530U, 7531U and 7532U 871U through 875U 8003U and 8021U Grey 429 U to 433 U 443 U to 447 U Warm Grey 6U-11U Cool Grey 6U-11U 5467U to 5527U Grey-Blue 5395U to 5455U 621U to 627U 642U to 644U 647U to 650U 654U to 656U Green-Grey 5605U to 5665U Greens 555U to 559U 560 C 614 C to 616 C 5467 C to 5527 C 5535U to 5595U

8. Service commercial/retail buildings of 10,000 square feet or less shall have a pitched roof. Service commercial/retail buildings greater than 10,000 square feet and/or more than two stories shall provide a pitched roof, mansard roof, cupolas or other varying roof-elements. Office/Institutional buildings of less than three stories shall have a pitched roof, mansard roof, cupolas or other varying roof-elements. Minimum roof pitches shall be 4:12. Nothing in this standard shall discourage the placement of rooftop mechanicals, provided they are screened from right-of-way as per Section [12E.3.B.2] of this article.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.4. [Reserved.]

Sec. 12E.5. Miscellaneous Provisions.

1. Front and side yards, parking lots, areas immediately adjacent to buildings or any area outside the interior permanent and sheltered portions of a building shall not be used for storage, display or sale of goods except for out of store marketing devices, restaurant/cafe; seating, seasonal holiday trees, pumpkins, open air fairs (provided an Administrative Permit is obtained pursuant to Article 19 of the Zoning Ordinance).
2. Outside storage and outdoor display is prohibited except LP tanks, garden centers and plant nurseries. A maximum of two out of store marketing devices (i.e. drink machines, video drop-boxes) may be permitted, provided they are located adjacent to the building.
3. Storage of shopping carts shall be located adjacent to the building where the carts are utilized. Storage/enclosure shall be made out of masonry to match the exterior building materials. Parking lot corrals are allowed.
4. Parking in excess of the minimum requirements for retail and service commercial centers in excess of 50,000 square feet must be located on a pervious surface.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.6. Conflicts with Other Provisions of Zoning Ordinance.

Nothing in this Ordinance shall be construed to exempt property and business owners from complying with other existing City regulations whenever this Article does not apply. This ordinance is an amendment to the Zoning Ordinance and all other provisions of the Zoning Ordinance shall remain in effect unless provisions in the Community Standards conflict with other provisions of the Zoning Ordinance, in which case, the stricter provisions of the Community Standards District shall apply.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.7. Interpretation, Violations, Enforcement and Penalty Provisions.

1. Violations. This Article shall be governed by Article XXIX, Section 29.1 of this Ordinance.
2. Enforcement. This Article shall be governed by Section 26.3 of this Ordinance.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.8. Severability.

In the event that any section, subsection, sentence, clause or phrase of this Article shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect 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.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.9. Appeals.

Any persons aggrieved by a final decision of the Department of Community Development relating to this article may appeal from such final decision to the Board of Zoning Appeals by filing in writing setting forth plainly, fully and distinctly why the final decision is contrary to law. Such appeal shall be filed within 30 days after the final decision of the department is rendered.

(Ord. No. 2010-09-18, 9-27-2010)

Sec. 12E.10. Adoption and Effective Date.

Now, Therefore Be It Resolved, the City of Johns Creek Mayor and City Council does hereby ordain, resolve, and enact the foregoing Article XII-E to the Zoning Ordinance of the City of Johns Creek, Georgia.

Applications for building permits, land disturbance permits, and sign permits filed after the day of adoption of this Ordinance shall meet the Community Standards.

(Ord. No. 2010-09-18, 9-27-2010)

FOOTNOTE(S):

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Editor's note— Ord. No. 2010-09-18, adopted Sept. 27, 2010, deleted the former Art. XII-E, §§ 12E.1—121E.10, and enacted a new Art. XII-E as set out herein. The former Art. XII-E pertained to community standards and derived from Ord. No. 2010-05-08, adopted May 24, 2010. (Back)

ARTICLE XVIII. OFF STREET PARKING AND LOADING

Sec. 18.1. Scope.

Sec. 18.2. Parking Spaces Required.

Sec. 18.3. Acceptable Locations for Off-Street Parking.

Sec. 18.4. Off-Street Parking Design Requirements.

Sec. 18.5. Parking for Specialized Vehicles.

Sec. 18.6. Off-Street Loading.

Sec. 18.1. Scope.

The location, design and quantity of off-street parking and loading facilities for every use located in the City of Johns Creek shall comply with requirements herein.

Sec. 18.2. Parking Spaces Required.

Every principle use shall be served by off-street parking spaces as specified below. Parking spaces shall serve only the designated use and shall be located on the same lot as the use unless another location is authorized in accordance with other provisions of this Zoning Ordinance.

18.2.1. *Basic Off-Street Parking Requirements.* Parking requirements shall be calculated based on the site's principle use. All areas are expressed in gross square feet of building area unless ground area or some other measure is specified. Parking in excess of the minimum requirements for shopping centers in excess of 50,000 square feet must be located on a pervious surface. Any fraction of one-half or larger shall constitute a whole. A bench seat shall consist of 18 inches.

Use Group	Example of Types of Use	Minimum Requirement
All areas are expressed in spaces per Gross Square Feet of Building Area unless Ground Area or some other measure is specified;		
Assembly Places with Fixed Seating	stadiums auditoriums theaters amphitheaters	one per 4 fixed seats
Assembly Places without Fixed Seating	meeting halls libraries	one per 35 sq. ft. in largest assembly room
Auto Dealerships, Sales & Service	new car sales used car sales service & parts	1 per 300 sq. ft. of showroom/office, excluding inventory
Child Care Kindergarten	day care centers pre-school	1 per 500 sq. ft.
Churches and Other places of Worship Without Fixed Seating	churches cathedrals temples	one per 4 fixed seats in the largest assembly area one per 30 sq. ft. in largest assembly area
Clubs and Lodges	country clubs fraternal organizations	1 per 200 sq. ft.
Commercial, Amusement, Outdoor	amusement parks skateboard parks batting cages	1 per 4 fixed seats or one per 35 sq. ft. of floor area used for moveable seats; plus 1 per 100 sq.

		ft. of ground area identified for recreation and assembly
Dormitories and Related	dormitories fraternity houses sorority houses boarding houses halfway houses	one per 2 bedroom
Festivals, Outdoor	horseshows carnivals dogs shows arts and crafts shows	1 per 500 sq. ft. of ground area identified for festivals and music festivals related seating
Financial Institutions	banks credit unions brokerage houses	1 per 200 sq. ft.
Funeral Homes		one per 3 fixed seats + one for each 25 sq. ft. in the largest assembly room
Golf Course, Public and Private, Without Club Facilities With Club Facilities		50 spaces per 9 holes 50 spaces per 9 holes + 1 per 1000 sq. ft.
Health Care Facilities	hospitals out-patient clinics convalescent home nursing home assisted living/personal care home	one per four beds + one per 3 employees
Hotels & Motels, No Restaurants With Restaurants	hotels motels	one per room 1.25 per room
Industrial and Manufacturing	assembly plants fabrication plants factories	one per 1000 sq. ft.

Laboratories, Scientific & Related	experimental labs fabrication plants factories	1 per 400 sq. ft.
Medical Offices Related Facilities	dental offices doctor's offices veterinary offices clinics	1 per 250 sq. ft.
Mini-warehouses		1 per employee + 1 per 5000 sq. ft.
Offices, General	freestanding offices office towers office parks offices assoc. with other uses	1 per 300 sq. ft. to 250,000 sq. ft.; 1 per 400 sq. ft. all exceeding 250,000 sq. ft.
Personal Service Establishments	barber shops beauty parlors laundromats, dry cleaners	1 per 200 sq. ft.
Race Track		one per 4 fixed seats or one per 35 sq. ft. of floor area used for moveable seats, plus 1 per 100 sq. ft. other spectator area.
Recreational Facilities, Indoor	billiard parlors game rooms arcades skating rinks physical fitness centers museums bowling alleys	1 per 200 sq. ft.
Recreation, Private Single-family or Mixed Residential Use, Association or Club	 tennis court basketball court swimming pool	 3 per court 4 per court 6 per adult swimming pool + 1 per 15 dwelling units beyond 60 served
Recreation, Public	basketball court playing fields tennis courts	4 per court 50 per field 3 per court

	driving range miniature golf swimming pool	2 per tee 20 per 18 holes 20 + 1 per 50 sq. ft. of pool area
Recycling Center		1.5 spaces per 1,000 square feet of building floor area and 2 spaces per outdoor recycling collection container plus loading spaces as specified in Section 18.6.1
Residential Multi-family	one bedroom or efficiency unit 2 bedroom unit 3 bedroom unit	2 per dwelling unit
Residential, Single-Family	detached dwelling duplexes mobile homes	2 per dwelling unit
Residential, Retirement Home	retirement homes retirement village senior housing	1.25 per dwelling unit
Restaurants, Nightclubs and Taverns, Freestanding (including outdoor seating)	cafeterias bars dance clubs restaurants music clubs bistros	1 per 100 sq. ft.
Retail Establishments	boutiques shops stores rental services art galleries food stores	1 per 200 sq. ft.
Roadside Stand		6 spaces + 1 per 200 sq. ft. ground area
Salvage, Storage and/or Junk Facility		1 per employee plus 4 per acre
Schools	junior high elementary middle	larger of 2 per classroom or one per 35 sq. ft. in largest assembly area

	secondary colleges business colleges universities trade conservatories voc-tech	larger of 10 per classroom or one per 35 sq. ft. in largest assembly area 1 per 200 sq. ft.
Service and Repair Establishments	appliance repair shops bicycle repair shops shoe repair shops general repair centers	1 per 300 sq. ft.
Service Stations and Automotive Repair Centers	automotive garages paint and body shops tire centers service stations car care centers	1 per 200 sq. ft.
Shopping Center		1 per 200 sq. ft. to 15,000 sq. ft.; 1 per 250 sq. ft. exceeding 15,000 sq. ft.
Warehousing and Storage	commercial storage distribution centers	one per 2000 sq. ft.

18.2.2. *Shared Parking.* The standards for shared parking may be utilized for any of the combinations of uses shown below on any number of properties when approval is reflected in the conditions of zoning for each such property. Similar provisions are provided under Off-Site And Shared Parking Requirements in the Administrative Permits article for those uses which were not zoned concurrently or as part of a multiple use project. The conditions of zoning or Administrative Permit, as applicable, establish the limits of parking requirements among uses and properties, and the City of Johns Creek shall not require any contractual relationship among property owners.

The standards for determining parking requirements in a multiple use development are:

A. Determine the minimum amount of parking required for each separate use.

B. Multiply each parking requirement by the corresponding percentage for each of the time periods given below.

C. Calculate the column total parking requirement for each time period.

D. The largest column total is the shared parking requirement.

	Weekdays		**Weekends**		**Nighttime**
	6am-5pm	5pm-1am	6am-5pm	5pm-1am	1am-6am
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/ Recreational	40%	100%	80%	100%	10%
Church	50%	50%	100%	100%	10%

EXAMPLE

Properties proposed for individual uses would require the following number of parking spaces:

Office .....300 spaces

Retail .....280 spaces

Entertainment .....100 spaces

Total .....680 spaces

Properties proposed for multiple uses under the provisions for shared parking would require the following number of parking spaces:

	Weekdays		**Weekends**		**Nighttime**
	6am-5pm	5pm-1am	6am-5pm	5pm-1am	1am-6am
Office	300	30		15	
Retail	168	252	280	196	14
Hotel					
Restaurant/ Entertainment/ Recreational	40	100	80	100	10
Total	508	382	390	311	39

Thus, 508 spaces would be needed for this development, a reduction of 172 spaces or 25 percent.

18.2.3. *Administrative Reduction of Spaces Constructed.* The Director of the Community Development Department may authorize a reduction in the total number of parking spaces constructed on a site to no less than 90 percent of the basic requirement when all of following conditions are met:

A. The request for reduction in parking shall show that the reduction is justified on the basis of characteristics unique to the specific proposed use of the property in contrast to the characteristics of other uses within the same category.

B. Prior to granting the reduction in total parking spaces constructed, the Director of the Community Development Department shall conclude that the reduction is justified, and shall approve, in whole or in part, or deny the request stating the reasons therefore in the report.

Sec. 18.3. Acceptable Locations for Off-Street Parking.

18.3.1. *Parking and Loading Locations.* Note: The minimums required in this subsection may be less than the requirements necessary to accommodate a landscape area or buffer requirement of Section 4.23. At a minimum, all required parking spaces must be located on an all-weather surface as defined in Article III. Parking lots greater than six (6) spaces shall be constructed of impervious surface or of an approved pervious paving system.

A. Single-Family Districts. Within single-family dwelling districts and the AG-1 district when utilized for a single-family dwelling, the parking or storage of vehicles shall be prohibited except on PARKING SPACES as defined in Article III. Off-site location of required parking spaces is prohibited. Unenclosed parking spaces may occupy a side yard, and no more than 50 percent of a required rear yard. The maximum allowable paved parking or all weather surface area in front yards (excluding walkways and required sidewalks) shall be not more than 35%, excluding

the TR and CUP Districts. Garage and carport spaces may count toward the minimum required spaces in single-family districts.

Within the AG-1 and single-family districts when utilized for other than a single-family dwelling, the parking or storage of vehicles shall be located in accordance with the O-I DISTRICT requirements stated in E below.

The visible storage or parking of more than four vehicles at a single-family residence shall be unlawful. Parking or storage of a junk or salvage vehicle shall constitute an unlawful use except that no more than two such vehicles shall be permitted if parked or stored in a garage or carport not visible from a street or adjacent residential property.

B. TR, Townhouse Residential District. Individually subdivided parcels shall adhere to single-family district standards except that no off-street parking or driveways shall be located within 10 feet of any perimeter lot line.

Garage carport spaces count toward the minimum required spaces in the TR District.

C. A, Apartment Dwelling & A-L, Apartment District. No off-street parking shall be permitted within the required setback for the front yard and the side corner yard. Driveways shall not be located nearer than 10 feet to any side or rear property line. No off-street parking space shall be located within 25 feet of any side or rear property line adjacent to a single-family dwelling district or use, nor within 10 feet of any other property line. TR District requirements shall apply to single-family detached units constructed within the A District.

D. O-I, Office/Institutional Districts. No off-street parking shall be permitted within the required setback for the front yard and the side corner yard. No off-street parking shall be permitted within 25 feet of any property line which adjoins a single-family residential district or use.

If required, off-street loading areas shall be located in the rear or interior side yards.

E. C-1 and C-2, Commercial Districts & M-1 and M-1A, Industrial Districts. The off-street parking location regulations for dwellings, schools, institutions and similar uses are the same as for those uses in the A District.

Uses permitted in commercial districts other than those devoted to dwellings, schools, institutions, and similar uses shall provide no off-street parking within 25 feet of any property line that adjoins a residential district or use.

If required, off-street loading areas shall be located in the rear or interior side yards.

18.3.2. *Limitation on Trucks.* Except for trucks used in farming the property on which they are located, or trucks used in conjunction with a permitted use, trucks and/or trailers exceeding four tons empty weight shall not be stored or parked in any Agricultural or Residential zoning district unless engaged in moving household goods or making deliveries.

18.3.3. *Shared Driveways.* Driveways may be shared in all districts.

18.3.4. *Off-Site Location of Required Parking.* An Administrative Permit for off-site parking may be considered in accordance with the provisions of [this] Article.

18.3.5. *Landscape Areas and Buffers.* No required parking shall be permitted in any required landscape area or buffer. (See 4.23

18.3.6. *Vehicles at Automotive Repair and Specialty Shops.* Vehicles at automotive repair and specialty shops must be serviced and stored within the footprint of the building or at the rear of the structure but outside of any minimum yard. Vehicles must be totally screened from all property lines by a 100% opaque fence or wall together with landscape strips and buffers as specified by Article 4.23.1.

18.3.7. *Commercial Vehicle Parking.* In any commercial or office zoning district, delivery/service trucks/vans and trucks/vans displaying advertising of a business located on the property must be parked within the side or rear yard and may not be parked within the front yard, except vehicles parked temporarily while making a delivery, providing a service, or purchasing goods or services. Should there be no parking areas in the side or rear of the building, the vehicle may be parked in the front. Passenger cars (as classified by Federal Highway Administration FHWA) displaying advertising may be parked in the front yard; however, under no circumstances may a vehicle with advertising park in a parking space adjacent to an exterior road.

(Ord. No. 2014-06-23, 6-16-2014)

18.3.8. *Stacking Lanes.* A separate stacking lane (accommodating at least 2 vehicles per lane) is required for any commercial development with a drive-through/drop-off component (i.e. drive-up window, bank drive-through, or pick-up station).

Sec. 18.4. Off-Street Parking Design Requirements.

18.4.1. *Angled or Parallel Parking.* Aisles serving off-street parking shall be no fewer than 22 feet in width, except that aisles designed for one-way circulation systems shall be no fewer than 14 feet in width for 0-45 degree parking, 18 feet in width for 46 to 60 degree parking and 22 feet in width for 61 to 90 degree parking. A standard parking space shall measure no fewer than 153 square feet, and shall be no fewer than 8.5 feet wide. Twenty percent (20%) of the total parking spaces may be designated as compact car spaces. A compact space shall measure a minimum of 120 square feet with a minimum width of 8 feet. Each compact space shall be clearly marked. No part of a vehicle shall overhang into a Landscaped Portion of a required landscape area.

18.4.2. *Landscape Islands.* Landscape islands shall be provided throughout parking lots in accordance with the requirements of Section 4.23 of this ordinance.

18.4.3. *Handicapped Parking.* Parking spaces designed for handicap persons shall be provided in accordance Georgia law.

Sec. 18.5. Parking for Specialized Vehicles.

Specialized vehicles such as earth moving equipment, tractors or other heavy construction vehicles are only to be stored in residential, Agricultural districts and non-residential districts except M-1 and M-1A Industrial districts during construction with an active building permit and/or land disturbance permit. Other specialized vehicles such as recreational vehicles, campers, buses (including school buses), trailers, mobile home coaches, boats and boat trailers may be parked or stored in all residential districts under the following conditions: (Also See 18.3.2 for trucks)

A. That such vehicles are not used as living quarters.

B. That the location of the parking or storage area shall be in the buildable area of the lot and shall not be in front of the principal structure.

Sec. 18.6. Off-Street Loading.

18.6.1. *Loading Spaces Required.* Off-street loading spaces shall be provided as follows:

Type of Use	**Gross Floor Area (Sq. Ft.)**	**Loading Spaces Required**
Single Retail Establishment Services	0 to 19,999 20,000 to 49,999 50,000 to 250,000 Over 250,000	None One Two Three
Shopping Centers	0 to 19,999 20,000 to 49,999 50,000 to 100,000 Each additional 100,000	None One Two One
Office Buildings		None
Apartment Building over four stories, Hospitals, Health Care Establishments, Hotels and Motels	1,000,000 to 2,000,000 More than 2,000,000	One Two
Manufacturing, Warehousing, Wholesaling, etc.	Up to 14,999 15,000 to 39,999 40,000 to 65,000 Each additional 80,000	One Two Three One
Recycling Center		2 loading spaces measuring no less than 12 feet by 35 feet and having 14 feet of vertical clearance

18.6.2. *Design and Arrangement of Off-Street Loading Areas.* The following standards shall apply to off-street loading areas:

A. A loading space shall measure no less than 12 feet by 35 feet and have 14 feet of vertical clearance.

B. For any use required to furnish three or more loading spaces, at least one in every three shall measure no less than 12 feet by 55 feet.

C. Maneuvering space shall not include required parking spaces or any portion of a public right-of-way.

18.6.3. *Off-Street Loading Location Limitations.* Off-street loading spaces and maneuvering areas shall be located only in those portions of a lot where off-street parking areas are allowed with the following additional limitations:

A. *Industrial Zoning Districts:* If the loading and maneuvering areas are across from, or adjacent to, any non-industrial zoning district, a fifty-foot landscaped strip shall be established, behind which the maneuvering and berth space may be located.

B. *Non-Industrial Zoning Districts:* In the event that spaces and maneuvering areas are to be located in a yard adjacent to any established residential use, a fifty-foot landscaped strip shall be established behind which the berths and maneuvering spaces may be located.

ARTICLE XIX. ADMINISTRATIVE PERMITS AND USE PERMITS

Sec. 19.1. Scope and Intent.

Sec. 19.2. Application and Approval.

Sec. 19.3. Minimum Administrative Permit Standards.

Sec. 19.4. Minimum Use Permit Standards.

Sec. 19.1. Scope and Intent.

This article specifies uses which are not classified as permitted uses in zoning districts, and are therefore only allowed through the approval of an Administrative Permit or a Use Permit. The standards which apply to each use are enumerated and must be met in order for an application to be granted.

Sec. 19.2. Application and Approval.

Uses allowable with an Administrative Permit and the minimum standards for such uses are listed in Section 19.3 of this Article.

Uses allowable with a Use Permit and the minimum standards for such uses are listed in Section 19.4 of this Article or in Article XX. Conservation Subdivision Ordinance.

19.2.1. *Application of Regulations.* Uses enumerated herein or in Article XX. Conservation Subdivision Ordinance may be authorized by Administrative Permit or Use Permit, as specified. The regulations contained in this Article shall not apply to any Permitted Use in any zoning district.

19.2.2. *Administrative Permits.* Any use authorized by Administrative Permit shall be approved and permitted by the Director of the Community Development Department whenever the proposed use complies fully with the requirements of the subject property's zoning district and standards as set forth in Section 19.3. Each requested use for which an Administrative Permit is required shall be assigned an Administrative Permit number and charged a fee. Said permit shall be posted on site prior to commencement of use. Variances to administrative permit standards may be requested by petition to the Board of Zoning Appeals. In certain cases, conditions are imposed by the Director of the Public Works Department with respect to roadway, water, sewer and/or other infrastructure improvements, and rights-of-way dedications which must be met.

19.2.3. *Use Permits.* Any use authorized by Use Permit may be approved by the Mayor and City Council in accordance with standards enumerated under each use (Section 19.2.4 or Article XX. Conservation Subdivision Ordinance) provided:

A. The subject use is allowable in the subject property's zoning district;

B. The standards for the Use Permit as specified in Article 19 can be met, as well as Use Permit Considerations pursuant to Section 19.2.4;

C. A public hearing has been held in relation to the Use Permit before the City of Johns Creek Planning Commission and the City of Johns Creek's Mayor and City Council in conformance with the notice standards outlined in Article XXVIII;

D. Recommendations have been received from the City of Johns Creek Community Development Department staff and the City of Johns Creek Planning Commission; and

E. Conditions imposed with respect to right-of-way dedication and roadway, water, sewer and/or other infrastructure improvements are met.

19.2.3.1. *Applications.* Use Permit requests shall require a separate application when included with a petition for rezoning. Each requested use for which a Use Permit is required shall be charged a standard Use Permit fee and assigned a Use Permit number which will be listed on the petition for rezoning. A public hearing, notice and evaluation shall be provided in accordance with Article XXVIII for each requested Use Permit. Each request shall be voted on separately, and each Use Permit request submitted as part of a rezoning petition shall be treated independently in the minutes of the Mayor and City Council meeting.

19.2.3.2. *Expiration.* All Use Permits shall expire within three (3) years from the date of approval by the Mayor and City Council or as otherwise conditioned unless a Land Disturbance Permit, Building Permit, Business License or Certificate of Occupancy has been issued Requests for extensions shall be made in accordance with the standards for extensions contained in Article XXVIII.

19.2.3.3. *Re-application.* Filing of Use Permits shall follow the requirements established in Article XXVIII 28.2 regarding Land Use Petitions.

19.2.3.4. *Variances.* Variances to Use Permit standards contained in Section 19.4 for receiving a Use Permit may be considered by the Mayor and City Council concurrently with a Use Permit petition if submitted with such petition. Such a variance request shall not require a separate variance application, but shall be assigned a variance number, charged a standard variance fee and be listed on the Use Permit petition as a Concurrent Variance in accordance with Article XXII, APPEALS, Section 22.9

19.2.3.5. *Accessory Uses.* Structures and land may be used for uses customarily incidental to any approved use.

19.2.4. *Use Permit Considerations.* In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use which requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following:

(1) Whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization plans adopted by the Mayor and City Council;

(2) Compatibility with land uses and zoning districts in the vicinity of the property for which the Use Permit is proposed;

(3) Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;

(4) The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;

(5) The location and number of off-street parking spaces;

(6) The amount and location of open space;

(7) Protective screening;

(8) Hours and manner of operation;

(9) Outdoor lighting; and

(10) Ingress and egress to the property.

In granting such permits, conditions may be attached as are deemed necessary in the particular case for the protection or benefit of neighbors to ameliorate the effects of the proposed development/use.

19.2.5. *Additional Restrictions.* Any use authorized by Administrative Permit or Use Permit shall comply with all other City regulations, zoning district regulations, conditions of zoning approval and other regulations contained herein. All buffers required shall have a 10-foot improvement setback in accordance with Section 4.2.3. The reduction of said setback shall be subject to the approval of the Department of Community Development in accordance with Article 22 unless reduced as a concurrent variance. Whenever a standard contained in this section is in conflict with another provision of this Ordinance, the more restrictive provision shall prevail.

Unless otherwise specified, standards, conditions and stipulations attached to a Use Permit by the Mayor and City Council shall supersede conflicting zoning conditions approved on the same site.

Sec. 19.3. Minimum Administrative Permit Standards.

19.3.1. *Wireless Telecommunications Facility—Alternative Antenna Support Structure.*

Intent. Pursuant to Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the City of Johns Creek. It is the intent of this Section to address the aesthetic effect of wireless telecommunications facilities on landscapes in the City, citizens' demands for these services, and the needs of service providers.

The following Administrative Permit Standards regulating the design, location, placement, and height limits of alternative antenna support structures implement the City of Johns Creek's governmental interest in land planning, aesthetics and public safety:

A. *Allowed Districts with Administrative Permit:* All.

B. *Standards:*

1. Alternative antenna support structures and accessory equipment must be set back from the property line of any other residential or AG-1 zoned property and any residential dwelling a minimum distance equal to the height of such alternative antenna support structure. The height of an alternative antenna support structure shall be measured vertically from the average natural ground elevation within the perimeter of the base of the structure to its highest point when positioned for operation, including any antenna positioned for operation.

2. The height of an alternative antenna support structure shall not exceed 130 feet as measured above.

3. Accessory equipment located on the ground shall be enclosed by fencing not less than 6 feet in height.

4. Except where access to the equipment compound is provided, a minimum 10-foot wide landscape strip planted to buffer standards, as set forth in the Tree Preservation Ordinance, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen unless the City of Johns Creek Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with the Tree Preservation Ordinance.

5. The alternative antenna support structure shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Alternative antenna support structures which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
6. Alternative antenna support structures shall not be artificially lighted except to assure human safety or as required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
7. Alternative antenna support structures shall be designed and constructed to ensure that the structural failure or collapse of the structure will not create a safety hazard to adjoining properties, according to applicable Federal Standards which may be amended from time to time.
8. Alternative antenna support structures shall not contain any signs for the purpose of commercial advertising.
9. An alternative antenna support structure that ceases operation for a period of 12 consecutive months shall be determined to have been abandoned and shall be removed within 90 days of such abandonment at the property owner's expense. It shall be the duty of both the property owner and the owner of the alternative antenna support structure to notify the City in writing of any intent to abandon the use of the structure.
10. An application for an alternative antenna support structure shall be submitted in accordance with the Department's Plan Review submittal requirements.
11. An application for an alternative antenna support structure shall include a certification from a professional civil and/or structural engineer (licensed in the State of Georgia) that the proposed structure meets the applicable design standards for wind loads.
12. An alternative antenna support structure shall not be located in a 100-year flood plain or delineated wetlands. Notwithstanding the foregoing, an alternative antenna support structure may be located in the 100-year floodplain if all accessory equipment can be located above the 100-year flood level, subject to such wireless telecommunications facility's compliance with any and all other City ordinances, regulations and/or rules related to floodplain management, flood damage prevention, and flood hazard reduction.
13. This Section shall not apply to any request to locate an alternative antenna support structure within or upon public right-of-way in the City or upon any property or structure of the City.

C. *Exemptions.* The following uses shall not be subject to the issuance of an administrative permit if the applicable requirements for each use set forth below are met; provided, however, nothing set forth herein shall exempt the subject property or structure from applicable development regulations or building regulations, including development/building permit requirements:

1. Colocations -Wireless transmission equipment may be colocated within an existing alternative antenna support structure without the requirement of an administrative permit provided the following requirements are met, as applied to the structure as it was originally approved and constructed:
   a. The proposed colocation shall not increase the existing height or width of the alternative antenna support structure within which the wireless transmission equipment is to be located;
   b. The proposed colocation shall not increase the dimensions (area/perimeter) of the existing equipment compound; however, the dimensions of the equipment compound may be modified to allow an increase in the area of such equipment compound of up to 20 percent, as long as the other standards and requirements applicable to the

wireless telecommunications facility are met (e.g., setback, landscaping, etc.) as determined by the Director;

c. The proposed Colocation shall maintain the concealment of antennas as an architectural feature and be camouflaged so as to match the existing structure.

d. The proposed colocation shall comply with the conditions of zoning approval or the conditions of the use permit applicable to the subject property or use;

e. Certification from a structural engineer (licensed to practice in the State of Georgia) that the proposed colocation shall not exceed the load limits of the alternative antenna support structure; and

f. Certification from a radiofrequency engineer that the proposed wireless telecommunications facility will not interfere with emergency or public safety communications.

2. Alternative antenna support structures used solely for public safety purposes, installed and operated as a governmental function by federal or state government or authorized City or County public safety agencies (e.g., City or County 911 emergency communications and public safety communications for sheriff's office, police department, fire department or first responder medical services) may be installed without the requirement of an administrative permit. Unless otherwise prohibited by law, public safety agencies shall be required to provide a map of the alternative antenna support structure location. Notwithstanding the foregoing requirement regarding the use of the alternative antenna support structure for public safety purposes, colocations of wireless transmission equipment for commercial purposes may be allowed (pursuant to the requirements set forth in the preceding paragraph). When an alternative antenna support structure approved for an authorized public safety agency ceases to be operated or used by an authorized public safety agency for a public safety purpose, any current use of such alternative antenna support structure by a nonpublic safety entity (due to a prior colocation) shall be deemed nonconforming and the structure shall be deemed a nonconforming structure, unless such nonpublic safety entity submits an application for use of the alternative antenna support structure pursuant to the administrative or use permit requirements set forth in this Article, as applicable, as if it were a new structure.

D. *Variances.* No relief from or variance to the standards set forth in Subsection B.2 hereof shall be allowed by petition to the Board of Zoning Appeals pursuant to the variance procedures set forth in Articles 19 and 22 (See: Sections 19.2.2, 22.2.2 and 22.7). To request relief from any of the requirements set forth in Subsection B.2 regarding height limitations, an applicant shall be required to submit an application for a use permit as set forth in Section 19.4.7 together with an application for a concurrent variance. The requirements related to the application for any such request and the factors to be considered in granting or denying such a request are set forth in Paragraphs C, D, and F of Section 19.4.7.

(Ord. No. 2013-04-10, § 3, 7-22-2013)

19.3.1(1). *Amateur Radio Antenna to Exceed the District Height. (See Use Permit 19.4.5)*

Intent. It is the intent of this Article to regulate the placement of amateur towers in a manner that does not impose on public health, safety, or general welfare. The following regulations on design, location, placement, and height limits of antennas in residential districts implements The City of Johns Creek's governmental interests in land planning, aesthetics and public safety by requiring the following standards:

A. *Required Districts:* All

B. *Standards:*

1. Antennas shall be located in the rear yard.

2. The maximum height shall be 90 feet. Any request to exceed the maximum height shall require a Use Permit (See 19.4.5)
3. All antennas shall be set back from all property lines 1/3 the height of the antenna or the district setback requirements, whichever is greater. The antenna must be located a distance equal to or greater than the antenna height from the nearest residential dwelling, excluding the owner's primary dwelling or structure.
4. Antennas shall not be lighted.
5. All antennas must be constructed with an anti-climbing device.
6. Antennas shall be painted in a neutral color identical or closely compatible with surroundings.
7. All guy wires must be anchored on site and outside of right-of-way.

19.3.1(2). *Wireless Telecommunications Facility—Antenna, Tower, and/or Antenna Support Structure.*

Intent. Pursuant to Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the City of Johns Creek. It is the intent of this Section to address the aesthetic effect of wireless telecommunications facilities on landscapes in the City, citizens' demands for these services, and the needs of service providers.

The following Administrative Permit Standards regulating the design, location, placement, and height limits of wireless telecommunications facilities (including antennas, towers and accessory equipment) implement the City of Johns Creek's governmental interest in land planning, aesthetics and public safety:

A. *Allowed Districts with Administrative Permit:*

1. Antenna or Tower to Exceed District Height—M-1A and M-1 (See, Use Permit, Section 19.4.7, for use in residential, AG-1, NUP, MIX, O-I, C-1 and C-2 districts).
2. Antenna or Tower Not to Exceed District Height—All nonresidential districts, except AG-1 (See, Use Permit, Section 19.4.7, for use in residential or AG-1).

B. *Standards:*

1. Towers and accessory equipment/equipment compounds must be set back from the property line of any residential and/or AG-1 zoned property and any residential dwelling a minimum distance equal to the height of the tower. The height of a tower shall be measured vertically from the average natural ground elevation within the perimeter of the base of the tower to its highest point when positioned for operation, including any antenna positioned for operation.
2. The height of the tower in any M-1 or M-1A district shall not exceed 200 feet, as measured above. For all other nonresidential districts (excluding AG-1), the height of the tower, as measured above, shall not exceed the subject district's maximum height requirements for structures.
3. The tower and accessory equipment shall be enclosed by fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.
4. Except where access to the equipment compound is provided, a minimum 10-foot wide landscape strip planted to buffer standards, as set forth in the Tree Preservation Ordinance, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen unless the City of Johns Creek Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with the Tree Preservation Ordinance.

5. The wireless telecommunication facility shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
6. Wireless telecommunication facilities shall not be artificially lighted except to assure human safety or as required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
7. Towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable Federal Standards which may be amended from time to time.
8. Towers and wireless telecommunications facilities shall not contain any signs for the purpose of commercial advertising.
9. A wireless telecommunications facility, tower or antenna that ceases operation for a period of 12 consecutive months shall be determined to have been abandoned and shall be removed within 90 days of such abandonment at the property owner's expense. It shall be the duty of both the property owner and the owner of any wireless telecommunications facility, tower or antenna to notify the City in writing of any intent to abandon the use of a wireless telecommunications facility, tower or antenna.
10. Wireless telecommunications facilities not requiring FAA painting/marking shall have either a galvanized finish or [be] painted a dull blue, gray, or black finish.
11. An application for a wireless telecommunications facility shall be submitted in accordance with the Department's Plan Review submittal requirements.
12. An application for a wireless telecommunications facility shall include a certification from a professional engineer licensed in the State of Georgia that the proposed structure meets the applicable design standards for wind loads.
13. A wireless telecommunications facility shall not be located in the 100-year flood plain or delineated wetlands. Notwithstanding the foregoing, a wireless telecommunications facility, including a tower, may be located in the 100-year floodplain if all accessory equipment can be located above the 100-year flood level, subject to such wireless telecommunications facility's compliance with any and all other City ordinances, regulations and/or rules related to floodplain management, flood damage prevention, and flood hazard reduction.
14. This Section shall not apply to any request to locate a wireless telecommunications facility, tower or antenna within or upon any public right-of-way in the City or upon any property or structure of the City.

C. *Exemptions.* The following uses shall not be subject to the issuance of an administrative permit if the applicable requirements for each use set forth below are met; provided, however, nothing set forth herein shall exempt the subject property or structure from applicable development regulations or building regulations, including development/building permit requirements:

1. Colocations—Wireless transmission equipment may be colocated on an existing tower provided the following requirements are met, as applied to the structure as it was originally approved and constructed:
    a. The proposed collocation shall not increase the existing height or width of the tower to which the wireless transmission equipment is to be attached;
    b. The proposed collocation shall not increase the dimensions (area/perimeter) of the equipment compound; however, the dimensions of the equipment compound may be modified to allow an increase in the area of such equipment compound of up to twenty percent (20%), as long as the other standards and requirements applicable to the

wireless telecommunications facility are met (e.g., setback, landscaping, etc.) as determined by the Director;

c. The proposed collocation shall comply with the conditions of zoning approval or the conditions of the use permit applicable to the subject property or use;

d. Certification from a structural engineer licensed to practice in the State of Georgia that the proposed collocation shall not exceed the load limits of the tower; and

e. Certification from a radiofrequency engineer that the proposed wireless telecommunications facility will not interfere with emergency or public safety communications.

2. Towers used solely for public safety purposes, installed and operated as a governmental function by federal or state government or authorized City or County public safety agencies (e.g., City or County 911 emergency communications and public safety communications for sheriff's office, police department, fire department or first responder medical services) may be installed without the requirement of an administrative permit. Unless otherwise prohibited by law, public safety agencies shall be required to provide a map of the tower or wireless telecommunications facility location. Notwithstanding the foregoing requirement regarding the use of the tower for public safety purposes, collocations of wireless telecommunications facilities for commercial purposes may be allowed (pursuant to the requirements set forth in the preceding paragraph). When a tower approved for an authorized public safety agency ceases to be operated or used by an authorized public safety agency for a public safety purpose, any current use of such tower by a nonpublic safety entity (due to a prior collocation) shall be deemed nonconforming and the structure shall be deemed a nonconforming structure, unless such nonpublic safety entity submits an application for use of the tower pursuant to the administrative or use permit requirements set forth in this Article, as applicable, as if it were a new tower.

3. COW's—Upon a declaration of a state of emergency or disaster by Federal, State or local government or a determination of public necessity by the City, the City Manager or his/her designee may approve the placement of a COW at any location within the City, subject to the COW's compliance with Federal and/or State requirements, for a period of not more than 120 days following the duration of the state of emergency or occurrence of the disaster or other event providing for public necessity. Further, the City Manager or his/her designee may approve the placement of a COW for the purpose of providing coverage of a special event, subject to the COW's compliance with Federal and/or State requirements, for up to 45 days prior to such special event, for the duration of the special event, and for up to 14 days thereafter.

D. *Variances.* No relief from or variance to the standards set forth in Subsection B.2 hereof shall be allowed by petition to the Board of Zoning Appeals pursuant to the variance procedures set forth in Articles 19 and 22 (See, Sections 19.2.2, 22.2.2 and 22.7). To request relief from the requirement set forth in Subsection B.2 regarding height limitations for towers in M-1 or M-1A districts, an applicant shall be required to submit an application for a use permit as set forth in Section 19.4.7 together with a request for a concurrent variance. The requirements related to the application for any such request and the factors to be considered in granting or denying such a request are set forth in Paragraphs C, D, and F of Section 19.4.7.

(Ord. No. 2013-04-10, § 4, 7-22-2013)

19.3.1(3). *Attached Wireless Telecommunications Facility—Attached Antenna Support Structure.*

Intent. Pursuant to Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the City of Johns Creek. It is the intent of this Section to address the aesthetic effect of wireless

telecommunications facilities on landscapes in the City, citizens' demands for these services, and the needs of service providers.

The following Administrative Permit Standards regulating the design, location, placement, and height limits of attached wireless telecommunications facilities (including antennas and accessory equipment) implement the City of Johns Creek's governmental interest in land planning, aesthetics and public safety:

A. *Allowed Districts with Administrative Permit:*

1. Roof-Mounted and Building-Mounted Attached Wireless Telecommunications Facilities: AG-1 with an existing institutional use, MIX, O-I, C-1, C-2, M-1A, M-1 (See, Use Permit, Section 19.4.7, for use in residential, AG-1 (without an existing institutional use), and NUP districts).

2. Attached Wireless Telecommunications Facilities Mounted to Electrical Transmission Towers, Utility Poles or Light Structures—All districts.

B. *Standards Applicable to Roof-Mounted and Building-Mounted Attached Antenna Support Structures:*

1. Roof-mounted and building-mounted wireless telecommunications facilities are subject to the setback requirements of the zoning districts in which located.

2. Roof-mounted and building-mounted wireless telecommunications facilities may only be located on buildings that are at least 3 stories and a minimum of 40 feet in height.

3. The height of roof-mounted attached antenna support structures shall not exceed 20 feet in height. Height of the roof-mounted attached antenna support structure shall be measured from the existing roof surface of the building (at the location where the structure is mounted) to the highest point of the roof-mounted wireless telecommunications facility, including any antenna positioned for operation.

4. Roof-mounted attached wireless telecommunications facilities may be mounted to an existing pitched, gabled or mansard roof if such a mount operates to screen the roof-mounted wireless telecommunications facility from visibility. A roof-mounted wireless telecommunications facility may be located within an existing cupola, steeple, or similar architectural treatment in order to screen the wireless telecommunications facility from visibility.

5. The roof-mounted or building-mounted wireless telecommunications facility, including any antennas or antenna arrays, must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent or plainly visible to a reasonable person of ordinary sensibilities. The roof-mounted attached antenna support structure and any accessory equipment located on the roof shall be stepped back from the façade of the building in order to limit the roof-mounted wireless telecommunications facility's impact on the building's silhouette and shall be camouflaged within or behind existing architectural features to limit the visibility from public rights-of-way and adjacent properties zoned residential or AG-1. If existing architectural features are not sufficient to screen the roof-mounted wireless telecommunications facility, a parapet wall, cupola, roof screen, or other similar architectural feature that matches the existing architecture of the building, as determined and approved by the Director, shall be installed. The roof-mounted or building-mounted wireless telecommunications facility, including the attached antenna support structure and antenna(s), shall be finished to match the architectural features, materials and color of the building. The antenna(s) of a building-mounted wireless telecommunication facility shall be flush mounted to the building and shall not extend or project outside of the building's silhouette unless architectural features can be used to camouflage, screen or obscure same. Further, any cables for a building-mounted wireless telecommunication facility that are located on the side of the building shall be enclosed in conduit finished to match the materials and color of the building. The applicant shall submit

(a) photo simulations of the roof-mounted or building-mounted wireless telecommunications facility, which show the proposed facility set against the skyline and viewed from at least 4 directions within the surrounding area, and (b) detailed drawings or renderings of the roof-mounted or building-mounted wireless telecommunications facility, which provide the manner in which the proposed facility will be enclosed, camouflaged, screened, and/or obscured to meet the visibility requirements set forth herein.

6. Accessory equipment located on the roof of a building shall be designed, or located within an enclosure designed, to architecturally match the facade, roof, wall or other architectural features of the building on which they are mounted and blend in with the existing structural design, color and texture of the building in order to provide the least visually obtrusive profile.

7. Accessory equipment located on the ground may only be located in the rear or side yard of the lot and shall be subject to the setback requirements of the zoning district.

8. Accessory equipment located on the ground (not located on the roof or within the existing building) shall be enclosed by fencing not less than six feet in height. Except where access to the equipment compound is provided, a minimum 10-foot wide landscape strip planted to buffer standards, as set forth in the Tree Preservation Ordinance, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen, unless the City of Johns Creek Arborist determines that existing plant materials are adequate. The landscape strip shall be maintained in accordance with the Tree Preservation Ordinance.

9. Roof-mounted and building-mounted wireless telecommunications facilities meeting the requirements of this Section may be located on properties zoned AG-1 when attached to an existing building or structure used for an institutional use.

C. *Standards Applicable to Attached Wireless Telecommunications Facilities Mounted to Electrical Transmission Towers:*

1. For any existing electrical transmission tower that is at least 80 feet in height and located within an utility easement of at least 80 feet in width, an attached wireless telecommunications facility may be mounted to the top and extend up to 15 feet above the height of such electrical transmission tower.

2. Accessory equipment located on the ground shall be enclosed by fencing not less than 6 feet in height and set back a minimum of 20 feet from the boundaries of the public utility easement.

3. Except where access to the equipment compound is provided, a minimum 10-foot wide landscape strip planted to buffer standards, as set forth in the Tree Preservation Ordinance, shall be required on the exterior all sides of the fence surrounding the equipment compound as a vegetative screen unless the City of Johns Creek Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with the Tree Preservation Ordinance. A landscape strip shall not be required if the accessory equipment is not visible from any public right-of-way and any adjacent property zoned residential or AG-1.

4. Other than attached wireless telecommunications facilities meeting the requirements of the previous paragraphs, small cells, repeaters or similar low power mobile radio service wireless telecommunications facilities may be mounted to an existing electrical transmission tower pursuant to the standards set forth in the following section applicable to utility poles and light structures.

D. *Standards Applicable to Attached Wireless Telecommunications Facilities Mounted to Utility Poles or Light Structures:*

1. Only small cells, repeaters or similar low power mobile radio service wireless telecommunications facilities may be mounted to an existing utility pole or light structure.
2. The attached wireless telecommunications facility may only have up to 3 directional panel antennas no larger than 1-foot by 2 feet or 1 omni-directional antenna no larger than 1-foot by 5 feet. Antennas shall be of a color that blends with that of the supporting utility pole or light structure and the attached antenna support structure or mount attaching such antenna(s) to the utility pole or light structure shall not project more than 24 inches from the appurtenant edge of such structure.
3. Accessory equipment shall be located in an equipment cabinet with dimensions no larger than 30 inches in height, 24 inches in width, and 12 inches in depth when flush mounted upon the utility pole or light structure and no larger than 46 inches in height, 28 inches in width, and 20 inches in depth when located on the ground adjacent thereto. Notwithstanding the foregoing, an equipment cabinet flush mounted to an electrical transmission tower may have dimensions up to 46 inches in height, 28 inches in width, and 20 inches in depth. Cables shall be enclosed in conduit attached flush to the utility pole or light structure. Otherwise, accessory equipment shall be located in an underground vault.
4. Any equipment cabinet or antenna(s) mounted to the utility pole or light structure must be located on the utility pole or light structure at a height of 15 feet or more above grade.
5. The attached wireless telecommunications facility shall be fully camouflaged to blend in with the subject structure in order to render the wireless transmission facility as visually inconspicuous as possible, such that the attached wireless telecommunications facility is not readily apparent or plainly visible to a reasonable person of ordinary sensibilities. Mounting brackets, equipment cabinet and conduit shall be painted to match the color of the utility pole or light structure.

E. *Additional Standards Applicable to Attached Wireless Telecommunications Facilities:*

1. The attached wireless telecommunication facility shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Wireless Telecommunications Facilities which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
2. Attached Wireless Telecommunications Facilities shall not be artificially lighted except to assure human safety or as required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
3. Attached Wireless Telecommunications Facilities shall be designed and constructed to ensure that the structural failure or collapse of the attached antenna support structure will not create a safety hazard to adjoining properties, according to applicable Federal Standards which may be amended from time to time.
4. Attached Wireless Telecommunications Facilities shall not contain any signs for the purpose of commercial advertising.
5. An attached wireless telecommunications facility, including any antenna or antenna array, that ceases operation for a period of 12 consecutive months shall be determined to have been abandoned and shall be removed within 90 days of such abandonment at the property owner's expense. It shall be the duty of either the property owner (or owner of the utility pole) and the attached Wireless Telecommunications Facilities owner to notify the City in writing of any intent to abandon the use of an attached wireless telecommunications facility, including any antenna.
6. An application for a wireless telecommunications facility shall be submitted in accordance with the Department's Plan Review submittal requirements.

7. An application for an attached wireless telecommunications facility shall include a certification from a professional engineer (licensed in the State of Georgia) that the proposed attached Wireless Telecommunications Facilities, including the attached antenna support structure and the existing building or structure to which attached, meets the applicable design standards for wind loads and has sufficient structural integrity to accommodate the proposed use.

8. Wireless telecommunications facilities shall not be located in 100-year floodplain or delineated wetlands. Notwithstanding the foregoing, wireless telecommunications facilities may be located in the 100-year floodplain if all accessory equipment can be located above the 100-year flood level, subject to such facility's compliance with any and all other City ordinances, regulations and/or rules related to floodplain management, flood damage prevention, and flood hazard reduction.

9. This Section shall not apply to any request to locate an attached wireless telecommunications facility on any electrical transmission tower, utility pole or light structure located within or upon any public right-of-way in the City or upon any property or structure of the City.

F. *Variances.* No relief from or variance to the standards set forth in Subsections B.3. and C.1. hereof shall be allowed by petition to the Board of Zoning Appeals pursuant to the variance procedures set forth in Articles 19 and 22 (See, Sections 19.2.2, 22.2.2 and 22.7). To request relief from any of the requirements set forth in Subsections B.3. and C.1. regarding height limitations, an applicant shall be required to submit an application for a use permit as set forth in Section 19.4.7 together with an application for a concurrent variance. The requirements related to the application for any such request and the factors to be considered in granting or denying such a request are set forth in Paragraphs C, D, and F of Section 19.4.7.

(Ord. No. 2013-04-10, § 5, 7-22-2013)

19.3.2. *Club.*

A. *Required Districts:* O-I, MIX, C-1, C-2, M-1A, M-1,

B. *Standards:*

1. All buildings and accessory uses other than parking shall be located at least 50 feet from all property lines of any residential district and/or AG-1 district used for single-family.

2. Permitted curb cut access shall not be from a local street.

3. Outdoor facilities within 200 feet of any residential district or dwelling shall limit the hours of operation from 8:00 a.m. to 11:00 p.m.

4. Outdoor recreational facilities shall be set back a minimum of 100 feet from all property lines of any residential district and/or AG-1 district used for single-family, except as otherwise permitted with an Administrative Permit for Recreational Court or Swimming Pool.

19.3.3. *Event, Special Indoor/Outdoor.* As applicable, special events are subject to the requirements of other City of Johns Creek Departments, such as Emergency Medical Services Plans, Emergency Planning and Preparedness Plans, tent permits, pyrotechnics permits, food service permits, etc.

A. *Required Districts:* O-I, MIX, C-1, C-2, M-1A, M-1, AG-1; residential districts in conjunction with an institutional use, such as a place of worship or a school, or for the benefit of charity such as tours of homes, show houses, and the like; or for filming activities; and in a CUP in conjunction with a commercial use. Private events on private property do not require an events permit.

B. *Standards:*

1. No more than two Administrative Permits shall be granted per year and no permit shall be effective for more than 14 consecutive days for a single event on the same property. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.
2. The hours of operation shall be 8:00 a.m. to 8:00 p.m., Sunday through Thursday and 8:00 a.m. to 10:00 p.m., Friday through Saturday.
3. Two copies of a drawing, no larger in size than 11" x 17", with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this Section shall be submitted to the Department of Community Department for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
4. The applicant shall provide a notarized written permission statement of the property owner or lease holder of the subject site to the Department of Community Development. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
5. The entire property shall comply with the zoning district's setback requirements.
6. No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of any residential use.
7. No tent, table or other temporary structure shall be located within 250 feet of a residential structure.

   Tents less than 5,000 square feet do not require a building permit; tents equal to or greater than 5,000 square feet require structural plan review and a building permit.

   All tents are subject to the approval of the Fire Department.
8. Sales from vehicles are prohibited.
9. The entire property shall comply with the City of Johns Creek parking requirements.
10. No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
11. A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
12. Signage shall be in accordance with Article 33.

19.3.4. *Golf Course.*

A. *Required Districts:* All

B. *Standards:*

1. A minimum 100-foot setback for all buildings and parking areas shall be provided adjacent to any residential district and/or AG-1 district used for single-family.
2. Driving range, tees, greens and fairways shall be required to have a 100-foot setback from minor, arterial, and major collector roads.
3. Permitted curb cut access shall be from a major thoroughfare unless shown on the approved preliminary plat of a single-family subdivision.

4. When located outside a golf course/subdivision development, a minimum 50-foot wide buffer and a 10-foot improvement setback shall be provided adjacent to all buildings and parking areas when said facilities are located adjacent to any residential district and/or AG-1 district used for single-family.
5. A minimum 25-foot buffer and a 10-foot improvement setback shall be provided adjoining any residential district and/or AG-1 district used for single-family located outside the golf course development or any associated development.
6. When located adjacent to any residential district and/or AG-1 district used for single-family, the hours of operation shall be limited to 8:00 a.m. to 11:00 p.m..

19.3.5. *Guest House.*

A. *Required Districts:* R-1, R-2, R2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1, O-1 and MIX when Accessory to a Single-Family Dwelling.

B. *Standards:*

1. No more than one guest house structure per lot may be used for occupancy by relatives, guest(s) or employees that work on the property without payment for rent.
2. A separate kitchen facility shall be allowed.
3. Heated floor area shall be a minimum of 650 square feet and a maximum of 1500 square feet.
4. Principal building setbacks shall apply.
5. The location shall be limited to the rear yard.

19.3.5(1). *Open.*

(Kennels deleted, See 19.3.19 Veterinary Clinic or Hospital and 19.4.24 Outside Animal Facilities or Kennel)

19.3.6. *Mobile Home-While Residence Is Being Built.*

A. *Required Districts:* R-1, R-2, R2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1, O-1 and MIX

B. *Standards:*

1. The building permit for the principal structure must have been issued and remain valid during the period that the mobile home is on the property.
2. The mobile home must be located on the same parcel as the principal structure being constructed and comply with all district setbacks.
3. The Administrative Permit shall expire 12 months after issuance or upon occupancy of the principal structure, whichever occurs first.

   Only one renewal for a one-year period may be issued.
4. The mobile home must be occupied by the owner of the principal residence under construction.

19.3.6(1). *Parking, Off-Site and Shared.* Whenever parking as required in Article 18 cannot be accomplished, SHARED PARKING in accordance with Section 18.2.2 may be approved via an Administrative Permit provided:

A. *Required Districts:* O-I, C-1, C-2, MIX, M-1 and M-1A

B. *Standards:*

1. If the off-site parking is committed for a specified period of time, the duration of the Administrative Permit shall be limited to the period of time stipulated therein.
2. No more than 20 percent of the total parking requirement may be provided off-site via this Administrative Permit.
3. The property must be located no more than 300 feet from the principal use with pedestrian access provided between the sites as may be required by the Community Development Department.

19.3.7. *Open.*

19.3.8. *Recreational Court, Private.*

A. *Required Districts:* All districts except C-1, C-2, M-1 and M-1A

B. *Standards:*

1. Detached Dwellings. Recreational courts serving single-family detached dwellings shall be located in side or rear yards but shall not be located within a minimum yard.
2. Multi-family. Recreational courts, accessory structures, and fencing shall be located a minimum of 100 feet from any residential building, adjoining property line or street.
3. *Neighborhood.* Recreational courts serving a neighborhood must be located within the limits of the underlying zoning.
   a. Use of the recreational courts shall be limited to residents and guests of the neighborhood in which they are located.
   b. Recreational courts, accessory structures, fencing, and parking shall be located a minimum of 100 feet from all adjoining property lines.
   c. Landscape strips and buffer requirements shall be as specified by Article 4.23.1.
   d. A maximum 4-square foot sign identifying the future use of the property for a recreational court shall be posted adjoining the lot's frontage until a Certificate of Occupancy is issued for the facility.
   e. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 foot-candles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 P.M.
   f. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single-family residential uses.

19.3.9. *Recreational Courts, Public.* Recreational courts operated as a club (except those serving residential developments), or courts operated as a business are defined herein as public courts.

A. *Required Districts:* O-I, MIX, C-1, C-2, M-1, M-1A,

B. *Standards:*

1. Recreational courts, accessory structures, fencing, and parking shall be located a minimum of 100 feet from all property lines which abut single-family residential uses. Adjacent to all other zonings and uses, the district setback requirements shall apply.
2. Landscape strips and buffer requirements shall be as specified by Section 4.23.1.
3. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 foot-candles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be used only between dusk and 11:00 P.M.

4. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.

19.3.10. *Relocated Residential Structure.*

A. *Required Districts:* R-1, R-2, R2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1, O-1 and MIX

B. *Standards:*

1. The applicant shall include the following with the application for the Administrative Permit:
   a. The address from which the structure is being relocated.
   b. A photograph of the structure prior to its relocation.
   c. The total heated floor area of both the existing structure and the renovated structure.
2. The location of the structure and the heated floor area of the structure shall be in compliance with the minimum standards of the zoning district and/or conditions of zoning.
3. The residential structure shall be affixed to a permanent foundation within 6 months of the date of the house moving permit, and the certificate of occupancy shall not be issued until such improvements are completed.
4. All standards of this Ordinance (except 2. above) and other applicable regulations shall be met within one year from the date of this permit issuance.
5. A House Moving Permit shall be obtained from the Community Development Department in conjunction with this Administrative Permit.
6. A building permit for the repair and construction of said structure shall be obtained within 30 days of this Administrative Permit issuance.
7. The exterior of the structure shall be brought into compliance with the City of Johns Creek Housing Code within six months of the issuance of this Administrative Permit.
8. Prior to occupancy, a Certificate of Occupancy must be obtained from the Department of Community Development.

19.3.10(1). *Religious Services Tent.*

A. *Required Districts:*. All districts.

A religious services tent may be placed only on property occupied by an existing building used as a place of worship.

B. *Standards:*

1. A permit may be granted a maximum of 14 days in a calendar year.
2. The revival tent or any area used for assembly shall be located at least 200 feet from a property line of any residential district and/or AG-1 district used for single-family.
3. No temporary, sanitary facility or trash receptacle may be located within 200 feet of an existing dwelling, and no tent shall be located within 250 feet of an existing dwelling.
4. Provide one parking space per four seats.
5. A drawing to scale shall accompany the application and shall accurately depict the number of seats and the standards of this Section.

6. The hours of operation shall be no earlier than 8:00 a.m. nor later than 11:00 p.m.

19.3.11. *Roadside Produce Stands.*

A. *Required Districts:* C-1, C-2, M-1, and AG-1

B. *Standards:*

1. No more than four Administrative Permits shall be granted per year and no single permit shall be effective for more than 30 consecutive days; however, 2 or more permits, not to exceed 4, may be combined for a duration of 60 days, 90 days or a maximum of 120 days. An application for said permit(s) shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.
2. The hours of operation shall be 8:00 a.m. to 8:00 p.m.
3. Two copies of a drawing, no larger in size than 11" x 17", with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this Section shall be submitted to the Department of Community Department for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
4. The applicant shall provide a notarized written permission statement of the property owner or lease holder of the subject site to the Department of Community Development. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
5. The property on which the roadside vendor is permitted must be located at least 1500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. Vendor shall provide names of all established businesses which sell similar or the same merchandise within 1500 feet of the proposed vendor site.
6. Any activity or structure shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said activity or structure shall also maintain a minimum setback of 10 feet from any internal drive or permitted curb cut.
7. A minimum of 6 parking spaces shall be provided for the exclusive use of the roadside produce stand and shall not occupy the minimum required parking spaces for any other use on site.
8. No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
9. No tent, table or other temporary structure shall be located within 100 feet of a residential structure.

Tents less than 5,000 square feet do not require a building permit; tents equal to or greater than 5,000 square feet require structural plan review and a building permit.

All tents are subject to the approval of the Fire Department.

10. No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point
11. A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
12. Signage shall be in accordance with Article 33.

19.3.11(1). *Roadside Vending.*

A. *Required Districts:* C-1, C-2, M-1

B. *Standards:*

1. No more than two Administrative Permits shall be granted per year and no permit shall be effective for more than 9 consecutive days. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.
2. The hours of operation shall be 8:00 a.m. to 8:00 p.m.
3. Two copies of a drawing, no larger in size than 11" x 17", with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this Section shall be submitted to the Department of Community Department for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
4. The applicant shall provide a notarized written permission statement of the property owner or lease holder of the subject site to the Department of Community Development. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
5. The property on which the roadside vendor is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. Vendor shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
6. Any vending displays or activity shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said displays or activities shall also maintain a minimum setback of 10 feet from any internal drive or permitted curb cut.
7. A minimum of 6 parking spaces shall be provided adjacent to the vending area for the exclusive use of the roadside vending and shall not occupy the minimum required parking spaces for any other use on site.
8. No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
9. No table or cart shall be located within 250 feet of a residential structure. Tents and tarps are prohibited. Sales from vehicles are prohibited.
10. No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
11. A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
12. Signage advertising the vending operation is prohibited.

19.3.11(2). *Seasonal Business Use.*

A. *Required Districts:* CUP (with a commercial component), MIX (with a commercial component), C-1, C-2, M-1A and M-1. Allowable in AG1 and residentially zoned districts only when the property is occupied by a church, school, lodge/retreat, farm, plant nursery, etc., existing as a conforming or a lawful non-conforming nonresidential use. The issuance of this permit does not constitute an expansion or extension of a nonconforming use.

B. *Standards:*

1. An Administrative Permit shall not be issued for the same seasonal business use more than once in any calendar year. Said seasonal business use must correlate to a calendar holiday or event. Said permit shall not exceed a total of 30 consecutive days for each use. Said permit must be posted on site such that it is visible from the street. An application for said permit shall be made no less than 14 days prior to the event. Example: One permit may be issued for the sale of Christmas trees for a maximum of 30 consecutive days. A second permit may be issued for the sale of pumpkins for a maximum of 30 consecutive days.
2. The hours of operation shall be 8:00 a.m. to 8:00 p.m., Sunday through Thursday and 8:00 a.m. to 10:00 p.m., Friday through Saturday.
3. Two copies of a drawing, no larger in size than 11" x 17", with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this Section shall be submitted to the Department of Community Department for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
4. The applicant shall provide a notarized written permission statement of the property owner or lease holder of the subject site to the Department of Community Development. A 24-hour contact number of the property owner or lease holder shall be provided along with permit application.
5. The property on which the roadside vendor is permitted must be located at least 1500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. Vendor shall provide names of all established businesses which sell similar or the same merchandise within 1500 feet of the proposed vendor site.
6. Any display or sales activity shall maintain a minimum 20-foot setback from the right-of-way and shall not be located within a required landscape strip or buffer. Said displays shall also maintain a minimum setback of 10 feet from any internal drive or permitted curb cut.
7. A minimum of 6 parking spaces shall be provided for the exclusive use of the seasonal business and shall not occupy the minimum required parking spaces for any other use on site.
8. No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
9. No tent, table or other temporary structure shall be located within 100 feet of a residential structure. Sales from vehicles are prohibited.

   Tents less than 5,000 square feet do not require a building permit; tents equal to or greater than 5,000 square feet require structural plan review and a building permit.

   All tents are subject to the approval of the Fire Department.
10. No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
11. A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
12. Signage shall be in accordance with Article 33.

19.3.12. *Swimming Pool, Private.*

A. *Required Districts:* All districts except C-1, C-2, M-1, M-1A

B. *Standards:* All swimming pools shall be completely surrounded by an enclosure. Such enclosure shall be a fence, wall, or building, to prevent access to the pool by unsupervised children and/or animals. The enclosure shall be an effective fence or wall not less than 5 feet high with self-closing, positive-latching gates provided on the outer side of the deck area. The enclosure entrance shall be locked when the pool is not open for use and all surrounding objects or structures must have a separation of five feet from the enclosure to provide an unclimbable space. The enclosure shall be in place prior to pool completion. Materials and construction shall comply with the regulations administered by the Fulton County Health Department.

1. *Detached Dwellings.* Swimming pools shall be allowed in side and rear yards of single-family dwellings in any district and may also be allowed at the back of the house on a double frontage single-family residential lot as approved by the Department. Pools, pool equipment, and their decks must be a minimum of 10 feet from all property lines, except that when perimeter setbacks are required, for example in NUP and TR zoned districts, pools, pool equipment, and decks cannot be located in perimeter setbacks.

2. *Neighborhood.* Swimming pools serving a neighborhood must be located within the limits of the underlying zoning.

   a. Use of swimming pools shall be limited to residents and guests of the neighborhood in which they are located.

   b. Pools, pool equipment, and decks must be located at least 100 feet from all adjoining property lines.

   c. Landscape strips and buffer requirements shall be as specified by Article 4.23.1.

   d. A maximum 4-square foot sign identifying the future use of the property for a swimming pool shall be posted adjoining the lot's frontage until a Certificate of Occupancy is issued for the facility.

   e. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 foot-candles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 P.M.

   f. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single-family residential uses.

3. *Multi-family.* Swimming pools, pool equipment, accessory structures, and fencing shall be located a minimum of 100 feet from any residential building, adjoining property line or street.

19.3.13. *Swimming Pool, Public.* Pools operated as a club (except clubs serving residential developments) or pools operated as a business are defined herein as public pools.

A. *Required Districts:* O-I, MIX, C-1, C-2, M-1A and M-1

B. *Standards:*

1. Pools, pool equipment, decks, and parking shall be located a minimum of 100 feet from all property lines which abut single-family residential uses. Adjacent to all other zonings and uses, the district setback requirements shall be provided.

2. Landscape strips and buffer requirements shall be as specified by Article 4.23.1.

3. Sources of exterior illumination shall be directed away from adjoining residences and shall not exceed 1.2 foot-candles along an adjoining residential property line. Outdoor lighting of recreation facilities in or adjoining residential districts or uses shall be allowed only between dusk and 11:00 P.M.
4. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines adjacent to single-family residential uses.

19.3.14. *Temporary Classroom.*

A. *Required Districts:* All

B. *Standards:*

1. The structure must be constructed for use as a temporary classroom and certified as such by the Community Development Department.
2. The principal use must exist prior to the issuance of the permit.
3. The temporary classroom shall not be used to increase the capacity or enrollment as conditioned by zoning, or as limited by other Use Permit conditions.
4. An Administrative Permit for a temporary classroom shall expire three (3) years from the date of approval at which time the structure shall be removed unless a new Administrative Permit is obtained within 30 days of the expiration date.
5. The structure shall not be located within any principal building setbacks or within any required landscape strips or buffers.
6. Two copies of a drawing showing dimensions shall accompany the application and shall accurately depict the proposed location of temporary structures, the traffic patterns and curb cuts and compliance with this section and all other applicable standards of this ordinance.

19.3.15. *Temporary Construction Structures.*

A. *Required Districts:* All.

B. *Standards:*

1. Temporary structures (whether site-built, mobile or manufactured structures) are permitted when being utilized solely for construction purposes. Construction purposes can include the use of construction trailers, sales trailers, and the storage of goods during construction/remodel.
2. Temporary structures shall be located outside of any required buffers and landscape areas, and shall maintain the principal building setback of the district except portable toilets must maintain a 200-foot setback from existing dwelling(s).
3. Temporary structures must be removed prior to the issuance of a Certificate of Occupancy or within 5 days of completion of the temporary event or activity for which the structure was approved.
4.
5. An Administrative Permit for a temporary structure shall expire three (3) years from the date of approval at which time the structure shall be removed unless a new Administrative Permit is obtained within 30 days of the expiration date. The Community Development Department may issue up to two (2) Administrative Permits extensions for new residential neighborhoods not to exceed 12 months in total.

19.3.16. *Temporary Use of Existing Dwelling While Residence is Being Built.*

A. *Required Districts:* All but M-1 and M-1A

B. *Standards:*

1. The building permit for the new principal structure shall be issued concurrently with this Administrative Permit.

2. The Administrative Permit shall expire 90 days after issuance of a certificate of occupancy for the new principal structure or one year after issuance of a building permit, whichever occurs first.

19.3.17. *Open.*

19.3.18. *Utility Substations (Telephone, Electric, or Gas, etc.).*

A. *Required Districts:* All.

B. *Standards:*

1. Utility substations measuring less than 35 square feet and less than 5 feet in height from finished grade are exempt from these regulations.

2. All substation structures shall be contained within the boundaries of the subject parcel and meet the minimum development standards of the district unless otherwise required in this article section.

3. Minimum setback of all utility structures from a residential structure shall be:

a. Electric: 200 feet.

b. Gas and Telephone: The applicable minimum setback for the district in which located.

4. A minimum 10-foot wide landscape strip planted to buffer standards shall be required around the perimeter of all utility sites except along lines where buffers are required.

5. For electric substations provide a minimum 50-foot wide replanted or natural buffer adjacent to the property lines of any residential district and/or AG-1 district used for single-family.

6. Interior to landscape strips or buffers that do not accomplish 100% visual screening as defined in the Tree Preservation Ordinance, provide an 8-foot high opaque fence or, masonry wall, a minimum 4-foot high landscaped earthen berm, a vegetative screen or some combination thereof, subject to the approval of the Community Development Department.

19.3.19. *Veterinary Clinic/Hospital or Kennel.*

(See 19.4.24 for Kennel or Outside Animal Facilities); Permitted in AG-1

A. *Required Districts:* O-I, MIX, C-1, C-2, M-1A, M-1

B. *Standards:*

1. All of the activities directly associated with animal treatment shall occur entirely within a completely enclosed soundproof structure.

Sec. 19.4. Minimum Use Permit Standards.

19.4.1. *Agricultural-Related Activities.*

Intent. It is the intent of this Article to allow certain agricultural-related activities with a Use Permit in compliance with the development standards below to preserve the nature of agricultural areas. Such uses

shall include, but not be limited to, petting zoo, educational tours, dude ranches, picnicking, and pay fishing.

A. *Required District:* AG-1

B. *Standards:*

1. Minimum lot size shall be 5 acres.
2. Permitted curb cut access shall not be from a local street.
3. Food services may be provided.
4. A minimum of 100-foot setback is required from all property lines for activity areas, including parking.
5. All structures housing animals shall be set back a minimum of 100 feet from all property lines.
6. All parking and access areas must be of an all-weather surface per Article 18, Festivals, Outdoor.
7. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.8. Hours of operation shall commence no earlier than 6:00 a.m. and cease by 10:00 p.m.9. If located adjacent to any residential district or an AG-1 district used for single-family, the minimum buffers and landscape strips required for the O-I District as specified in Section 4.23 shall be required.10. Sanitary facilities or trash receptacles shall be located a minimum of 100 feet from a property line of any residential district and/or AG-1 district used for single-family.

19.4.2. *Open.*

19.4.3. *Open.*

19.4.4. *Aircraft Landing Area.*

A. *Required Districts:* All

B. *Standards:*

1. For fixed wing aircraft, a 1,000 foot clear zone extending from the end of all runways shall be secured through ownership or easement, but in no case shall the end of a runway be closer than 200 feet from any property line.
2. For both fixed and rotary-wing aircraft, neither the landing area nor any building, structure or navigational aid shall be located within 400 feet of a property line adjacent to any residential district and/or AG-1 district used for single-family.
3. Landing areas for fixed wing and rotary wing aircraft shall be designed to comply with the Airport Design Guide of the Federal Aviation Administration.
4. If located within or adjacent to a residential district and/or AG-1 district used for single-family, the hours of operation shall be limited to 7:00 a.m. to 11:00 p.m.
5. A Use Permit for an Aircraft Landing Area shall have no force and effect except for requesting a land disturbance permit prior to filing a satisfactory F.A.A. airspace analysis with the Director of the Community Development Department.
6. In accordance with Section 28.4.3.2., submit an Environmental Impact Report as required.

19.4.5. *Amateur Radio Antenna to Exceed the Administrative Zoning Ordinance of the City of Johns Creek.*

Permit Height. See also Administrative Permit 19.3.1(1).

Intent. It is the intent of this Article to regulate the placement of amateur radio towers in a manner that does not impose on public health, safety, general welfare.

The following regulations on design, location, placement, and height limits of antennas in residential districts implements The City of Johns Creek's governmental interest in land planning, aesthetics and public safety by requiring the following Use Permit Standards:

A. *Required Districts:* All

B. *Standards:*

1. Antennas shall be located in the rear yard.
2. The request to exceed the height of 90 feet shall be accompanied by a written justification of its intent by the licensee. Under no circumstances shall an antenna exceed 200 feet in height.
3. All antennas shall be set back from the property line one-third the height of the antenna or the district setback requirements, whichever is greater. However, the antenna must be located a distance equal to or greater than the antenna height from the nearest residential dwelling, excluding the primary dwelling or structure which is located on the same lot as the antenna.
4. Antennas shall not be lighted.
5. All antennas must be constructed with an anti-climbing device.
6. Antennas shall be painted in a neutral color identical or closely compatible with surroundings.
7. All guy wires must be anchored on site and outside of right-of-way.

19.4.6. *Amphitheaters.*

A. *Required Districts:* AG-1, O-I, MIX, C-1, C-2, M-1A and M-1,

B. *Standards:*

1. Lot area shall be a minimum of 10 acres.
2. The stage shall be located a minimum of 600 feet from adjacent properties zoned for residential use and/ or AG-1 districts used for single-family.
3. Permitted curb cut access shall be only from an arterial street.
4. A minimum 100-foot buffer and 10-foot improvement setback shall be provided adjacent to residential districts, property zoned for residential use zoning or development or AG-1 districts when used for single-family.
5. A minimum 50-foot buffer and 10-foot improvement setback shall be provided adjacent to non-residential districts zoning or development.
6. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at the property lines of adjacent residential districts and/or AG-1 districts used for single-family.
7. Eight-foot high fencing shall be provided adjacent to properties zoned for residential use or AG-1 districts used for single-family.
8. The hours of operation of the facility shall be limited to 8:00 a.m. to 11:00 p.m. when adjacent to properties zoned for residential use and/or AG-1 districts used for single-family.

19.4.6(1).*ATM, Standalone*

A. *Required Districts:* MIX, O-1, C-1 & C-2.

B. *Standards:*

1. A vehicular circulation plan shall be provided.
2. Placement shall not impact the minimum required parking for the principal use.
3. All lighting must meet the city's night sky ordinance.
4. Signage shall be limited to 16 square feet.
5. Maximum height of all structures associated with the ATM shall be 10 feet.

19.4.7. *Wireless Telecommunications Facility—Antenna, Tower, and/or Antenna Support Structure.*

Intent. Pursuant to Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this Section to prohibit or have the effect of prohibiting the provision of personal wireless services in the City of Johns Creek. It is the intent of this Section to address the aesthetic effect of wireless telecommunications facilities on landscapes in the City, citizens' demands for these services, and the needs of service providers.

The following Use Permit Standards regulating the design, location, placement, and height limits of wireless telecommunications facilities (including antennas, towers and accessory equipment) in residential, AG-1, NUP, MIX, O-I, C-1, and C-2 zoned districts and implement the City of Johns Creek's governmental interest in land planning, aesthetics and public safety by requiring the following Use Permit Standards:

A. *Required Districts:*

1. Towers—Residential districts, AG-1, NUP, MIX, O-I, C-1, and C-2 (See, Administrative Permit, Section 19.3.1(2), for use of towers in M-1A and M-1 districts and for use of towers not exceeding the district height in all nonresidential districts, except AG-1).
2. Antenna Support Structures Not Meeting Administrative Permit Height Standards—See, Administrative Permit, Sections 19.3.1, 19.3.1(2) (for M-1 and M-1A only), and 19.3.1(3) for applicable districts.

B. *Standards for Towers in Residential, AG-1, NUP, MIX, O-I, C-2 and C-2 districts (See, Administrative Permit, Sections 19.3.1, 19.3.1(2), and 19.3.1(3), as applicable, for Standards applicable to alternative antenna support structures, towers in M-1 and M-1A districts, and attached wireless telecommunications facilities not meeting height standards):*

1. Towers and accessory equipment/equipment compounds must be set back from the property lines of any residential and/or AG-1 zoned property and any residential dwelling a minimum distance equal to one and one-half times the height of the tower. The height of a tower shall be measured vertically from the average natural ground elevation within the perimeter of the base of the tower to its highest point when positioned for operation, including any antenna positioned for operation.
2. The height of the tower (or antenna support structure) shall not exceed 200 feet, as measured above.
3. The tower and accessory equipment shall be enclosed by fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.
4. Landscaping shall be designed in such a way as to preserve existing mature growth and to provide in the determination of the city arborist, a suitable buffer of plant materials that mitigates the view of the tower and accessory equipment from surrounding property. Except where access to the equipment compound is provided, a minimum 10-foot landscape strip planted to buffer standards, as set forth in the Tree Preservation

Ordinance, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen unless the City of Johns Creek Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with the Tree Preservation Ordinance.

5. The tower shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.

6. Wireless telecommunications facilities shall not be artificially lighted except to assure human safety or as required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) or other federal or state law.

7. Towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable Federal Standards which may be amended from time to time.

8. Towers shall not be used for advertising purposes and shall not contain any signs for the purpose of commercial advertising.

9. A wireless telecommunications facility that ceases operation for a period of 12 consecutive months shall be determined to have been abandoned and shall be removed within 90 days of such abandonment at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the City in writing of any intent to abandon the use of the tower.

10. Towers not requiring FAA painting/marking and accessory equipment shall have either a galvanized finish or [be] painted a dull blue, gray, or black finish.

11. An application for a wireless telecommunications facility shall be submitted in accordance with the Department's Plan Review submittal requirements and the requirements set forth in Subsection C. below.

12. An application for a telecommunications facility shall include a certification from a professional engineer (licensed in the State of Georgia) that the proposed structure meets the applicable design standards for wind loads.

13. Wireless telecommunications facilities shall not be located in 100-year flood plain or delineated wetlands.

14. This Section shall not apply to a request to locate a wireless telecommunications facility, tower or antenna within or upon any public right-of-way in the City or upon any property or structure of the City.

C. *The Applicant for a Use Permit under this section shall provide the following:*

1. A scaled site plan which shall clearly indicate: (a) location, type, dimensions and height of the proposed wireless telecommunications facility, including the tower or antenna support structure to be utilized and any accessory equipment not located on the tower or antenna support structure, (b) cable/electrical elements to be utilized, (c) parking, (d) current and proposed on-site land uses and zoning of the property, (e) adjoining land uses and zoning designations, (f) distance from the nearest edge of the tower and all related structures to historic properties, historic structures, historic districts, or scenic views within one mile of the proposed site, (g) adjacent roadways and proposed means of access to the site, (h) setbacks from adjacent property lines, (i) elevation drawings of the proposed tower or antenna support structure and any accessory equipment not located on the tower or antenna support structure, and (j) topography of the proposed site, including any existing streams, wetlands and floodplains or similar features.

2. Legal description of the lot and leased parcel (if applicable), for which the Use Permit is to apply.
3. An executed lease agreement or lease option agreement with the owner of the lot on which the proposed tower will be located or other document evidencing the property interest of the applicant in the proposed tower site.
4. An engineering study which includes a current and a future definition of the area of service coverage, capacity and radio frequency goals for voice and data (delineated individually and combined) to be served by the antenna or tower and the extent to which such antenna or tower is needed for service coverage and/or capacity. The study shall include the following information: (a) all other planned or proposed antenna and/or tower locations and sites of the applicant within a two-mile radius of the proposed site; (b) all in-service, co-located or existing antenna and/or tower locations and sites of the applicant and all existing tower locations and sites of other carriers located within the geographic search area (GSA), to include the address of and distance from each of the current locations and sites to the proposed site; (c) a description of each of the applicant's current antenna and tower locations and sites within a two-mile radius of the proposed site, to include the types and kinds of services, service coverage, capacity and radiofrequencies provided by each antenna and tower; (d) an analysis of the current and projected usage and service coverage in the service area, including detailed service coverage maps indicating lack of service coverage (coverage gaps) and detailed reports providing the service coverage currently existing for in-home and transitory use, dropped call data (if applicant cites or claims dropped calls as a justification for constructing additional wireless telecommunications facilities), and anticipated service coverage of the proposed wireless telecommunications facility; and (e) a color propagation study indicating the existing service coverage of all wireless telecommunications facilities owned and proposed by the applicant within the GSA. The study shall also provide justification that the proposed height of the tower is the minimum necessary to achieve the required service coverage delineated in the study. If a capacity issue is involved, include an analysis of the current and projected usage in the GSA. The study shall bear the signature and certification of a radiofrequency engineer that the information provided in the application is true and correct.
5. An engineer scaled drawing providing the distance between (a) the nearest edge of the proposed tower and the nearest residential structure and (b) the nearest point of any proposed accessory equipment of the wireless telecommunications facility and the nearest residential structure.
6. Photo simulation and balloon test of the tower, antenna support structure, and/or wireless telecommunications facility showing the proposed wireless telecommunication facility set against the skyline and viewed from at least 4 directions within the surrounding area.
7. Certification that the wireless telecommunications facility, the foundation and all attachments are designed and will be constructed to meet all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. Structural integrity analysis shall be provided where antennas and equipment will be attached to an existing structure. Such certification and structural integrity analysis shall bear the signature and seal of a professional engineer (licensed in the State of Georgia) and shall include the design plans.
8. Written documented, detailed analysis of the impact of the proposed telecommunications facility/use addressing the factors specified in Subsection D. below.

9. Evidence of compliance with applicable FAA requirements under 14 C.F.R. Section 77, as amended, which may be a copy of the FAA determination of no hazard letter or a written statement prepared and signed by a professional airspace safety consultant.
10. Copies of the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) reports for the proposed wireless telecommunications facility, if any have been issued.
11. Copy of the Federal Communications Commission (FCC) license applicable for the intended use of the wireless telecommunication facility.
12. Documentation establishing whether a stealth technology installation is to be proposed, and if not, an explanation as to why not.
13. Analysis of possibilities of collocation or the inability to colocate, including any studies and detailed reasons as to why collocation is not possible and proof of the following: (a) all colocation sites and other alternative sites in the area that are/were being pursued and whether use of such sites has been denied, (b) there does not exist the ability to colcate using existing structures, and (c) all actions taken by the applicant to achieve collocation.
14. An inventory and map of the applicant's existing towers within the geographic boundaries of the City, including the service areas of each, as well as any tower outside of the City whose service area includes any part of the City.
15. In addition to the nonrefundable petition fees (as established by Mayor and Council) required pursuant to Article 28, the applicant shall be responsible for an additional fee equal to the City's actual, direct costs for the review of the engineering study (provided pursuant to Paragraph 4 above) by a third-party consultant (radiofrequency engineer), which shall not exceed $3,500.00. The applicant shall submit a deposit of $2,000.00 toward the fee to be paid pursuant to this section with its application.

D. Regarding a decision pursuant this section, in lieu of the Use Permit considerations set forth in Section 19.2.4., (i) the Planning Commission, after public hearing, may adopt a recommendation of approval or denial of the Use Permit, and (ii) the City Council shall, after public hearing, approve or deny the Use Permit, giving consideration to the following factors:

1. Demonstrated need for the wireless telecommunications facility at the specified site, including need for service coverage;
2. Proximity and impact, if any, on residential districts, residential uses and historic structures/properties;
3. Demonstrated need for the proposed height of the tower;
4. Impact on the use of adjacent properties and surrounding areas;
5. Topography and tree coverage of the area where the wireless telecommunications facility is to be located, and foliage that buffer the potential visual impact of the tower and wireless transmission equipment;
6. Design of the wireless telecommunications facility, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness, to include consideration of stealth technology installations;
7. Proposed ingress and egress; and
8. Availability of suitable existing towers or other structures for collocation or alternative/emerging technologies (small cells) not requiring the construction of additional towers or structures.

E. *Exemptions.* The following uses shall not require the grant of a use permit if the applicable requirements for each use set forth below are met; provided, however, nothing set forth herein

shall exempt the subject property or structure from applicable development regulations or building regulations, including development/building permit requirements:

1. Colocations—Wireless transmission equipment may be colocated on an existing tower provided the following requirements are met, as applied to the structure as it was originally approved and constructed:

    a. The proposed colocation shall not increase the existing height or width of the tower to which the wireless transmission equipment is to be attached;

    b. The proposed colocation shall not increase the dimensions (area/perimeter) of the equipment compound; however, the dimensions of the equipment compound may be modified to allow an increase in the area of such equipment compound of up to 20 percent, as long as the other standards and requirements applicable to the wireless telecommunications facility are met (e.g., setback, landscaping, etc.) as determined by the Director;

    c. The proposed colocation shall comply with the conditions of zoning approval or the conditions of the use permit applicable to the subject property or use;

    d. Certification from a structural engineer (licensed to practice in the State of Georgia) that the proposed colocation shall not exceed the load limits of the tower;

    e. Certification from a radiofrequency engineer that the proposed wireless telecommunications facility will not interfere with emergency or public safety communications.

2. Towers used solely for public safety purposes, installed and operated as a governmental function by federal or state government or authorized City or County public safety agencies (e.g., City or County 911 emergency communications and public safety communications for sheriff's office, police department, fire department or first responder medical services) may be installed without the requirement of a use permit. Unless otherwise prohibited by law, public safety agencies shall be required to provide a map of the tower or wireless telecommunications facility location. Notwithstanding the foregoing requirement regarding the use of the tower for public safety purposes, colocations of wireless telecommunications facility for commercial purposes may be allowed (pursuant to the requirements set forth in the preceding paragraph). When a tower approved for an authorized public safety agency ceases to be operated or used by an authorized public safety agency for a public safety purpose, any current use of such tower by a nonpublic safety entity (due to prior colocation) shall be deemed nonconforming and the structure shall be deemed a nonconforming structure, unless such nonpublic safety entity submits an application for use of the tower pursuant to the administrative or use permit requirements set forth in this Article, as applicable, as if it were a new tower.

3. COW's—Upon a declaration of a state of emergency or disaster by Federal, State or local government or a determination of public necessity by the City, the City Manager or his/her designee may approve the placement of a COW at any location within the City, subject to the COW's compliance with Federal and/or State requirements, for a period of not more than 120 days following the duration of the state of emergency or occurrence of the disaster or other event providing for public necessity. Further, the City Manager or his/her designee may approve the placement of a COW for the purpose of providing service for a special event, subject to the COW's compliance with Federal and/or State requirements, for up to 45 days prior to such special event, for the duration of the special event, and for up to 14 days thereafter.

F. *Variances.* No relief from or a variance to the standards set forth in Subsection B.2. hereof shall be allowed by petition to the Board of Zoning Appeals pursuant to the variance procedures set forth in Article 22 (See, Sections 22.2.2 and 22.7). To request relief from the requirement set

forth in Subsection B.2. regarding height limitations, an applicant shall be required to submit an application for a use permit together with a request for a concurrent variance, which shall be heard and decided by the Mayor and City Council. In regard to a decision on a concurrent variance, including any decision to grant or deny relief to the height limitations set forth in Subsections B.2. of this Section, Sections 19.3.1, and 19.3.1(2), and Subsection B.3. or C.1. of Section 19.3.1(3), consideration shall be given pursuant to the factors set forth in Paragraph D. hereof in addition to the variance considerations set forth in Section 22.3.1. A variance to height shall not exceed 10 percent of the maximum height allowed pursuant to the applicable Section of Article 19. Further, a variance (whether primary or concurrent) to minimum setback requirements, shall not exceed 25 percent of the minimum setback allowed pursuant to the applicable Section of Article 19.

(Ord. No. 2013-04-10, § 6, 7-22-2013)

19.4.8. *Bed and Breakfast.*

A. *Required Districts:* AG-1 (Agricultural), R-6, and TR (Townhouse Residential)

B. *Standards:*

1. A minimum of 2 guest rooms and a maximum of 5 guest rooms are permitted.
2. No parking in the minimum front yard.
3. The bed and breakfast shall be owner occupied.
4. Permitted curb cut access shall not be from a local street.
5. The minimum landscape and buffer areas hall be required as specified in Section 4.23 for AG-1 Agricultural District.
6. Parking requirements shall be the same as hotel/motel as specified in Article 18.
7. Identification or advertising signs shall be limited to 4 square feet in surface area and 4 feet in height.

19.4.9. *Cemetery and/or Mausoleum (Human or Pet).*

A. *Required Districts:* All

B. *Standards:*

1. Permitted curb cut access shall be only from a major thoroughfare, unless in conjunction with a place of worship.
2. No building shall be located within 50 feet of a residential district and/or AG-1 district used for single-family.
3. All structures, including graves, shall be inside meet the minimum yard setbacks or 10 feet, whichever is greater.

   If located adjacent to a single-family dwelling district and/or AG-1 district used for single-family, the minimum buffers and landscape strips required for the O-I District as specified in Section 4.23 shall be required.

19.4.10. *Church, Temple or Place of Worship.*

A. *Required Districts:* R-1, R-2, R-2A, R-3, R-3A, R-4A, R-4, R-5, R-5A, R-6, TR, NUP, A, A-L, and AG-1.

B. *Standards:*

1. All buildings and use areas/structures other than parking and pedestrian walkways shall be located at least 100 feet from any adjoining residential district and/or AG-1 district used for single-family.
2. No parking shall be located within the minimum front yard setback.
3. Any associated day care centers, private schools, recreational fields or other uses requiring a Use Permit or Administrative Permit shall be allowed only under a separate approved Use Permit or Administrative Permit for each use.
4. The minimum buffers and landscape strips required for the O-I zoning district as specified in Section 4.23 shall be required.

19.4.11. *Commercial Amusement, Outdoor.* Including, but not limited to, amusement parks, bungee jumping parks, skateboard parks, ski slopes, batting cages, miniature golf, drive-in theaters, etc. (See also 19.4.17 Driving Ranges.)

A. *Required Districts:* C-2, M1-A and M-1.

B. *Standards:*

1. Permitted curb cut access shall be derived only from arterial streets.
2. A minimum 100-foot buffer and 10-foot improvement setback shall be provided adjacent to residential districts and/or AG-1 districts used for single-family.
3. A minimum 50-foot buffer and 10-foot improvement setback shall be provided adjacent to non-residential zoning or development districts.
4. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.
5. Eight-foot high fencing shall be provided adjacent to any residential district and/or AG-1 district when used for single-family and interior to any required landscape strips or buffers.
6. The hours of operation of the facility shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential districts and/or AG-1 when used for single-family.
7. All recreational structures and activities shall maintain a minimum setback of 100 feet from any public right-of-way.
8. The height limits of the zoning district shall apply to all recreational structures unless a Use Permit to Exceed the Height is granted (See 19.4.21).

19.4.12. *Composting.*

A. *Required Districts:* AG-1

B. *Standards:*

1. Lot area shall be a minimum of five acres.
2. Permitted curb cut access shall be derived from an arterial or major collector.
3. The hours of operation shall be between the hours of 7:00 a.m. to 6:00 p.m.
4. All operations shall maintain a minimum setback of 100 feet from all property lines.
5. The minimum buffers required are as specified for the M-1 District. (See Section 4.23
6. On-site traffic shall be limited to an all-weather surfaced area.
7. Stored materials shall be contained in such a manner as to prevent the blowing of any materials onto any surrounding property or roadway.

8. The composting facility shall obtain all necessary permits from the Department of Natural Resources, Environmental Protection Division.
9. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.
10. In accordance with Section 28.4.3.2., submit an Environmental Impact Report as required.

19.4.13. *Convalescent Center/Nursing Home/Hospice.* (Added as a permitted use in O-I, MIX, A, A-L, C-1 and C-2)

A. *Required Districts:* R-6 and TR

B. *Standards:*

1. Facilities shall be for 5 persons or more.
2. Permitted curb cut access shall be from an arterial or a major collector.
3. Provide the minimum landscape strips and buffers as required for the O-I zoning district as specified in Section 4.23
4. Provide a 50-foot building setback from all single-family districts or AG-1 districts used for single-family.
5. No parking allowed within the minimum front yard setback.
6. Rooms or suites of rooms may be designed with separate kitchen facilities.
7. Facility shall comply with applicable local, state, and federal regulations.
8. In accordance with Article 28.4.6., submit a Noise Study Report as required.

19.4.14. *Country Inn.*

A. *Required Districts:* AG-1

B. *Standards:*

1. Lot area shall be a minimum of 5 acres.
2. A minimum of 6 guest rooms and a maximum of 30 rooms are permitted. (See Article 19.4.8, Bed and Breakfast, for less than 6 guest rooms).
3. The Country Inn shall be owner occupied.
4. Permitted curb cut access shall be from a minor collector or higher road classification.
5. The establishment may provide meal services to guests.
6. Parking shall not be permitted within the minimum front yard setback.
7. The minimum landscape strip and buffer requirements for the O-I District as specified in Section 4.23 shall be required.
8. Identification or advertising signs shall be limited to one (1) sign of not more than 9 square feet and no more than 4 feet in height.
9. Parking requirements shall be the same as hotel/motel as specified in Article 18.

19.4.15. *Day Care Facility.* (Allowed as a permitted use in CUP, O-I, MIX, C-1 & C-2 Districts)

A. *Required Districts:* R-6, TR, A, and A-L. May be allowed in single-family districts and AG-1 in conjunction with an institutional use such as a church, temple, place of worship, school or a hospital.

B. *Standards:*

1. Facility shall be for 7 or more persons, excluding staff.
2. Provide minimum landscape strips, buffers and improvement setbacks as specified for the O-I district in Section 4.23.1.
3. Provide a minimum 6 foot high opaque fence interior to any required landscape strips and/or buffers around the periphery of the yard used for the play area.
4. Play areas shall be located within the rear or side yards.
5. The hours of operation shall be limited to Monday through Friday from 6:00 a.m. to 7:00 p.m.
6. No parking allowed in the minimum front yard setback.
7. Driveway design shall permit vehicles to exit the property in a forward direction.
8. In accordance with Article 28.4.6., submit a Noise Study Report as required.

19.4.16. *Open.*

19.4.17. *Driving Range.* (not associated with a golf course)

A. *Required Districts:* AG-1, O-I, MIX, C-1, C-2, and M-1A

B. *Standards:*

1. Lot area shall be a minimum of 10 acres.
2. Permitted curb cut access shall be from a major collector or arterial.
3. Loudspeakers/paging systems are prohibited adjacent to residential districts and/or AG-1 districts used for single-family.
4. The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential districts and/or AG-1 districts used for single-family.

19.4.17(1). *Open.*

19.4.18. *Equine Garment Fabrication.*

A. *Required Districts:* AG-1

B. *Standards:*

1. Limited to the fabrication and wholesale distribution of blankets, saddles, halters, and other similar garments.
2. All fabrication and storage associated with the permitted use shall occur entirely within a completely enclosed building.

19.4.19. *Festivals or Events, Outdoor/Indoor.* Including but not limited to horse shows, carnivals, dog shows, arts and crafts shows, music festivals, etc. See Festivals or Events, Occasional if not covered herein.

A. *Required Districts:* AG-1, O-I, MIX, C-1, C-2, M-1A, M-1

B. *Standards:*

1. Permitted curb cut access shall be from local streets.
2. Eight-foot high 100% opaque fencing shall be provided adjacent to residential districts and/or AG-1 districts used for single-family.

3. Hours of operation shall be between 8:00 a.m. and 11:00 p.m. when adjacent to residential districts and/or AG-1 districts used for single-family.
4. Activity areas, including parking, shall be at least 100 feet from a residential district and/or AG-1 districts used for single-family.
5. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent to land which is used for residential districts and/or AG-1 districts used for single-family purposes.
6. The festival or event shall be limited to a three-year period from the date of the Mayor and City Councils approval not to exceed a total of 180 consecutive days in a calendar year.

19.4.20. *Group Residence.* (Allowed as a permitted use in A, A-L, O-I, MIX, C-1 & C-2 Districts)

A. *Required Districts:* R-6 and TR

B. *Standards:*

1. Facilities shall be for 5 persons or more.
2. Permitted curb cut access shall not be allowed from a local street.
3. The minimum landscape strips and buffers required for the O-I district as specified in Section 4.23 shall be provided.
4. Parking shall not be permitted within the minimum front yard.
5. Facility shall comply with applicable local, state, and federal regulations and provide Department of Community Development with the applicable permit prior to the issuance of a certificate of occupancy.
6. Facility shall not be located closer than a quarter mile to the nearest property line of another group residence.

19.4.20(1). *Group Residence for Children (5 to 8 Children).*

A. *Required Districts:* AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R5A, NUP, CUP

B. *Standards:*

1. Facility shall be for no more than 8 children.
2. Parking shall comply with the requirements of Article18 for dwellings.
3. Copies of applicable local, state, and federal permits shall be provided to the Department of Community Development prior to the issuance of a certificate of occupancy.
4. Facility shall not be located closer than a quarter mile to the nearest property line of another group residence.

19.4.20(2). *Group Residence for Children (9 to 15 Children).*

A. *Required Districts:* R-6 and TR

B. *Standards:*

1. Facility shall be for no more than 15 children.
2. Parking shall comply with the requirements of Article 18 for dwellings.
3. Copies of applicable local, state, and federal permits shall be provided to the Department of Community Development prior to the issuance of a certificate of occupancy.
4. Facility shall not be located closer than a quarter mile to the nearest property line of another group residence.

19.4.21. *Height—To Exceed District Maximum.*

A. *Required Districts:* O-I, A, A-L, MIX, C-1, C-2, M-1 and M-1A

B. *Standards:*

1. Submit a site plan along with the application which shall depict the open space and spatial arrangement of buildings and facilities.
2. Sources of exterior illumination shall not be visible from adjoining residences.

19.4.22. *Open.*

19.4.23. *Open.*

19.4.24. *Kennel or Outside Animal Facilities.*

A. *Required Districts:* C-2 and M-1, (See Article 19.3.19 for enclosed kennels)

B. *Standards:*

1. Minimum one-acre lot size is required.
2. Buildings and runs, sun areas, exercise yards, patios or facilities other than parking shall be located at least 100 feet from all property lines and 200 feet from any single-family district and/or AG-1 district used for single-family.

19.4.25. *Landfill, Inert Waste Disposal.*

A. *Required Districts:* AG-1 and M-1

B. *Standards:*

1. No access shall be allowed from local streets.
2. Access streets shall be paved and shall be able to withstand maximum load limits established by the State of Georgia as approved by the Director of Public Works.
3. No portion of a new landfill shall be located within a three mile radius of the property lines of an existing landfill.
4. The waste disposal boundary of a landfill shall be located at least 500 feet from all property lines except adjacent to M-1 (Light Industrial) and zoned districts.
5. A minimum 200-foot buffer and 10-foot improvement setback shall be required along all property lines except public rights-of-way.
6. A minimum 50-foot buffer and 10-foot improvement setback shall be required along all public rights-of-way.
7. A minimum 6-foot high solid fence or wall shall be located on property lines or interior to the required buffers and improvement setbacks.
8. Limit hours of operation from 6:00 a.m. to 6 p.m., Monday through Saturday.
9. The owner shall provide the Director of the Community Development Department a current copy of all applicable permits from the Georgia Department of Natural Resources upon application for a Land Disturbance Permit.
10. Vehicles shall be allowed into a landfill site only if waste is covered to prevent blowing of material from the vehicle.
11. In accordance with Article 28.4.3.2., submit an Environmental Impact Report as required.

12. No portion of a new or expanded landfill shall be located within a one (1) mile radius of the property lines of residentially zoned or used property. An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.
13. The landfill shall be operated in accordance with the Rules of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4 Solid Waste Management, Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Plan, and 40 CFR Part 258 (Subtitle D of RCRA).

19.4.26. *Landfill, Solid Waste Disposal.*

A. *Required Districts:* M-1

B. *Standards:*

1. No access shall be allowed from local streets.
2. Access streets shall be paved and shall be able to withstand maximum load limits established by the State of Georgia as approved by the Director of Public Works.
3. No portion of a new landfill shall be located within a three mile radius of the property lines of an existing landfill.
4. The waste disposal boundary of a landfill shall be located at least 500 feet from all property lines except adjacent to M-1 (Light Industrial) zoned districts.
5. A minimum 200-foot buffer and 10-foot improvement setback shall be required along all property lines except public rights-of-way.
6. A minimum 50-foot buffer and 10-foot improvement setback shall be required along all public rights-of-way.
7. A minimum 6-foot high solid fence or wall shall be located on property lines or interior to the required buffers and improvement setbacks.
8. Limit hours of operation from 6:00 a.m. to 6 p.m., Monday through Saturday.
9. The owner shall provide the Director of the Community Development Department a current copy of all applicable permits from the Georgia Department of Natural Resource upon application for a Land Disturbance Permit.
10. Vehicles shall be allowed into a landfill site only if waste is covered to prevent blowing of material from the vehicle.
11. In accordance with Article 28.4.3.2., submit an Environmental Impact Report as required.
12. No portion of a new or expanded landfill shall be located within a one (1) mile radius of the property lines of a residentially zoned or used property. An expanded landfill shall not include any expanded use within the parcel boundaries of an existing site or location.
13. The landfill shall be sited and operated in accordance with the Rules of Georgia, Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4 Solid Waste Management, Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Plan, and 40 CFR Part 258 (Subtitle D of RCRA).

19.4.27. *Landscaping Business, Plant Nursery, or Garden Center with Indoor Retail Component.*

A. *Required Districts:* AG-1 (Agricultural)

B. *Standards:*

1. No access shall be allowed from local streets.

2. No parking is permitted in the minimum front yard.
3. All use areas/structures other than parking and pedestrian walkways shall be located at least 50 feet from any adjoining residential district or AG-1 (Agricultural) district.
4. Limit hours of operation from 6:00 a.m. to 8 p.m.
5. The minimum buffers and landscape strips required for the O-I (Office-Institutional) zoning district as specified in Section 4.23. shall be required.
6. Structure(s) for retail sales shall be limited to 1,000 total gross square feet.

19.4.28. *Lodge, Retreat and/or Campground. Facilities to include lodging and food service for social, educational and/or recreational purposes.*

A. *Required Districts:* AG-1, M-1A, M-1

B. *Standards:*

1. Minimum lot size shall be 10 acres.
2. Permitted curb cut access shall not be derived from a local street.
3. A minimum 100-foot wide buffer and 10-foot improvement setback are required adjacent to residential districts, AG-1 districts used for single-family and adjoining a public street.
4. A minimum 50-foot wide buffer and 10-foot improvement district are required adjacent to all other non-residential districts.
5. Length of the stay for all but permanent staff shall not exceed 30 consecutive days.
6. Sanitary facilities or trash receptacles shall be located a minimum of 200 feet from any residential district and/or AG-1 district when used for single-family.
7. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.
8. Recreational facilities associated with the use shall be for staff and guests only.
9. One parking space per lodging unit or five (5) per 1000 square feet of floor area, whichever is greater.

19.4.28(1). *Medical Related Lodging.* (Allowed as a permitted use in A and A-L)

A. *Required Districts:* R-6 and TR

B. *Standards:*

1. Total number of bedrooms or units shall not exceed 20, including staff facilities.
2. Rooms or suites of rooms may be designed with separate kitchen facilities.
3. Lodging Facility shall be located within one mile of a hospital or inpatient clinic.
4. Facilities locating in a TR District must have frontage on streets with classifications higher than local streets.
5. If located adjacent to a single-family district and/or an AG-1 district used for single-family, the minimum buffers and landscape strips required for the O-I District as specified in Section 4.23 shall be required.
6. Off-street parking requirements shall be one per living unit plus one per nonresident employee. Parking is not allowed in the front yard setback.
7. Signs shall not exceed 4 square feet in area and 4 feet in height.

19.4.29. *Open.*

19.4.30. *Open.*

19.4.31. *Mobile Home - Accessory Dwelling.*

A. *Required Districts:* AG-1

B. *Standards:*

1. The mobile home shall be limited to a three-year period from the date of the Mayor and City Council's' approval, after which the mobile home shall be removed unless an additional Use Permit has been granted.
2. The mobile home shall be located in the rear yard of an existing residential structure in conformance with the yard standards for the location of accessory buildings.
3. The mobile home shall be for the exclusive use of and occupancy by a member of the family or a near relative of the occupant of the existing structure, including father, mother, sister, brother, daughter-in-law, son-in-law, child, ward or guardian.

19.4.32. *Quarries and/or surface Mining Sites.*

A. *Required Districts:* AG-1

B. *Standards:*

1. No portion of a new or expanded quarry shall be located within a 1.5 mile radius of the property lines of a residentially zoned or used property. An expanded quarry shall not include any expanded use within the parcel boundaries of an existing site or location.
2. No portion of a new or expanded surface mining site shall be located within a 500-foot radius of the property lines of a residentially zoned or used property. An expanded surface mining site shall not include any expanded use within the parcel boundaries of an existing site or location.
3. All activities of a quarry and/or surface mining shall be in compliance with the Georgia Blasting Standards Act of 1978, the 1968 Georgia Surface Mining Act and the U.S. Bureau of Mines RI 8507.

19.4.33. *Personal Care Home/Assisted Living.* (Allowed as a permitted use in O-I, A, A-L, MIX, C-1 and C-2)

A. *Required Districts:* R-6 and TR

B. *Standards:*

1. Facilities shall be for 5 persons or more.
2. Permitted curb cut access shall be from an arterial or a major collector. Permitted curb cut access may be allowed from a minor collector if within 1,000 feet of the property line of an institutional use.
3. Provide a 50-foot building setback from single-family districts and/or AG-1 districts when used for single-family.
4. No parking allowed in the minimum front yard setback.
5. The minimum parking spaces provided shall be in conformance with health care facilities per Article 18.2.1.
6. Provide landscape strips and buffers as required in the O-I district as specified in Article 4.23
7. Rooms or suites of rooms may be designed with separate kitchen facilities.

8. Facility shall comply with all applicable local, state, and federal regulations, and provide applicable permits to the Department of Community Development prior to the issuance of a certificate of occupancy.
9. In accordance with Article 28.4.6., submit a Noise Study Report as required.

19.4.34. *Private Correctional Facility/Prison.*

A. *Required Districts:* M-1

B. *Standards:*

1. Minimum lot size: 100 acres
2. All boundary lines of the property included within the Use Permit must be located at least 500 feet from the properties listed below:
   a. The property line of R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP, TR, A, A-L, AG-1 zoned property or property conditioned or used for residential purposes.
   b. The property line of any public recreational facilities, public or private institutional uses, including but not limited to churches, schools, universities, colleges, trade-schools, libraries, day care centers and other training facilities when minors are the primary patrons.
3. All boundary lines of the property included within the Use Permit must be located at least 10 miles from all property lines of any other correctional facility.
4. Submit, with the application for a Use Permit, a certified boundary survey of the site and the use of adjoining properties. If any of the uses or zoning districts referenced in B.2.a. and b. are located within 500 feet of the boundary lines of the subject property, and/or a correctional facility is located within 10 miles of the boundary line of the subject property, they must be identified by map as part of the Use Permit application.
5. A minimum 200-foot wide buffer and 10-foot improvement setback shall be provided adjacent to any property zoned other than M-1 from any property used for residential purposes.
6. A minimum 100-foot wide buffer and 10-foot improvement setback shall be provided adjacent to property zoned M-1
7. Permitted curb cut access shall be from a major thoroughfare.
8. Parking spaces shall be in accordance with Article 18, Hospitals.
9. Fencing shall be in accordance with American Correction Institute standards and located interior to required buffers and improvement setbacks.
10. Lighting shall be in accordance with American Correction Institute standards and the lighting standards set forth in this Zoning Ordinance. The more restrictive standards shall apply.
11. Facility shall comply with all applicable local, state, and federal regulations, and applicable permits shall be provided to the Community Development Department prior to the issuance of a certificate of occupancy.

19.4.35. *Race Track.*

A. *Required Districts:* AG-1 and M-1

B. *Standards:*

1. A minimum of 10 acres is required.

2. The race track and spectator stands for animal tracks shall be located a minimum of 500 feet from residential districts and/or AG-1 districts used for single-family, and 2,000 feet from such districts for vehicular tracks.
3. Permitted curb cut access shall not be from a local street.
4. A minimum 75-foot buffer and 10-foot improvement setback shall be provided adjacent to residential districts and/or AG-1 districts used for single-family.
5. A minimum 50-foot buffer and 10-foot improvement setback shall be provided adjacent to all other property lines.
6. Provide an eight-foot high fence interior to the required buffer/improvement setback and landscape strips.
7. A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.
8. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. when adjacent to residential districts and/or AG-1 districts used for single-family.
9. In accordance with Section 28.4.3.2., submit an Environmental Impact Report as required.

19.4.36. *Recreational Fields.* Including but not limited to soccer, softball, baseball, polo, football, cricket, etc.

A. *Required Districts:* All

B. *Standards:*

1. Permitted curb cut access shall not be from a local street.
2. A minimum 50-foot buffer and 10-foot improvement setback shall be provided adjacent to residential districts and/or AG-1 districts used for single-family.
3. Loudspeakers/paging systems are prohibited adjacent to residentially used property.
4. The hours of operation shall be limited to daylight hours when said facility is located adjacent to residential districts and/or AG-1 districts used for single-family.

19.4.37. *Recycling Center, Processing.*

A. *Required Districts:* C-2 and M-1A

B. *Standards:*

1. Limit hours of operation from 7:00 a.m. to 8 p.m., Monday through Saturday.
2. No portion of a new recycling facility shall be located within a three mile radius of the property lines of an existing recycling facility.
3. A minimum 200 foot buffer and 10-foot improvement setback shall be required along all property lines except public rights-of-way.
4. A minimum 50-foot buffer and 10-foot improvement setback shall be required along all public rights-of-way.
5. All recyclable materials shall be stored in containers with no stockpiling outside the containers.
6. Collection, storage containers, or receptacles shall not be allowed in minimum yards. Storage shall be screened with a six-foot high, solid wall or fence, including access gates.
7. The processing of recyclable materials must be done within an enclosed building.

8. Driveways shall be designed so vehicles will exit the facility in a forward direction.
9. A maximum continuous sound level of 65 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at property lines of adjacent residential districts and/or AG-1 districts used for single-family.
10. The recycling center shall comply with regulations administered by the Fulton County Department of Health.
11. In accordance with Article 28.4.3.2., submit an Environmental Impact Report as required.

19.4.38. *Open.*

19.4.39. *Salvage, Storage, and/or Junk Facility.*

A. *Required Districts:* M-1

B. *Standards:*

1. No portion of a new salvage, storage, and/or junk facility shall be located within a three mile radius of the property lines of an existing salvage, storage, and/or junk facility.
2. A minimum 200-foot buffer and 10-foot improvement setback shall be required along all property lines except public rights-of-way.
3. A minimum 50-foot buffer and 10-foot improvement setback shall be required along all public rights-of-way.
4. All facilities shall be screened from view from adjacent properties and roadways with a minimum 6-foot high, solid fence or wall, as approved by the Community Development Department, except for approved access crossings and utility easements. Said fence or wall shall be located interior to any required buffer or landscape strip.
5. Vehicles and other materials shall not be stacked so that they are visible from any adjacent properties.
6. In accordance with Article 28.4.3.2., submit an Environmental Impact Report as required.

19.4.40. *School, Private or Special.*

A. *Required Districts:* All

B. *Standards:*

1. Minimum lot area shall be 1 acre.
2. If located adjacent to a single-family dwelling district and/or AG-1 district used for single-family, the minimum landscape strips, buffers, and improvement setbacks required for the O-I district as specified in Section 4.23 shall be required.
3. Buildings, and refuse areas shall not be located within 100 feet of a residential district and/or AG-1 district used for single-family.
4. Active outdoor recreation areas shall not be located within 100 feet of an adjoining residential district or use. Recreational fields, such as playing fields, that are accessory to the school do not require a separate Use Permit.
5. Day care facilities in association with the school do not require a separate Use Permit.
6. Parking areas shall not be located within 50 feet of any residential district and/or AG-1 district used for single-family.
7. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles may re-enter the public street in a forward manner.

8. Permitted curb cut access shall not be from a local street.
9. In accordance with Article 28.4.6., submit a Noise Study Report as required.

19.4.41. *Self-Storage/Mini.*

A. *Required Districts:* C-1 and C-2

B. *Standards:*

1. At least 75% of the total on-site storage space shall be contained in individual enclosed stalls containing no more than 500 square feet each and being no more than 10 feet high.
2. No activities other than the dead storage or transfer of nonvolatile goods, or leasing of storage space are permitted. Prohibited uses include but are not limited to miscellaneous sales; fabrication or repair of vehicles, equipment or other goods; transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use which creates a nuisance due to noise, odor, dust, light or electrical interference.
3. An on-site manager or resident manager shall be required and shall be responsible for the operation of the facility in conformance with conditions of approval. A resident manager's apartment is included in the Use Permit.
4. Provide a minimum six-foot high, 100% opaque solid wooden fence or masonry wall along the entire length (except for approved access crossings) of all property lines. Said fence/wall shall to be located outside of any public right-of-way and interior to any required landscape strips or buffers.
5. A new or expanded self-storage facility shall be located a minimum of 1,500 feet from the boundary of any other self-storage facility (mini or multi).

19.4.41(1). *Self-Storage/Multi.*

A. *Required Districts:* MIX, C-1, and C-2

B. *Standards:*

1. No outside storage shall be allowed, including vehicle leasing.
2. All buildings shall have windows or architectural treatments that appear as windows.
3. No activities other than the dead storage or transfer of nonvolatile goods, or leasing of storage space are permitted. Prohibited uses include but are not limited to miscellaneous sales; fabrication or repair of vehicles, equipment or other goods; transfer-storage business based on site; residential uses (other than the resident manager's apartment), or any use which creates a nuisance due to noise, odor, dust, light or electrical interference.
4. Permitted curb cut access shall not be from a local street.
5. A new or expanded self-storage facility shall be located a minimum of 1,500 feet from the boundary of any other self-storage facility (mini or multi).

19.4.41(2). *Senior Housing.*

A. *Required Districts:* A Use Permit shall be required in any district in which the use is allowed. The use is allowed in all districts except M-1A, M-1 and unsewered AG-1.

B. *Standards:* In circumstances where conflict exists between overlay guidelines and this ordinance or resolution: (1) Overlay guidelines will generally supersede general ordinance and/or resolutions; (2) If the issue is specifically excluded in the Overlay, the ordinance and/or resolution will apply; (3) If the issue is addressed in both documents, the more restrictive will apply.

1. Building height shall be in accordance with the underlying zoning.

2. Dwelling units for seniors shall be exempted from any part of this ordinance which restricts density.
3. No more than 15 dwelling units per acre shall be allowed in a single-family development. No more than 20 dwelling units per acre shall be allowed in a multi-family development.
4. No dwelling unit shall contain more than two (2) bedrooms.
5. Multi-family dwelling units shall have a minimum of six hundred (600) square feet of gross floor area. Single-family dwelling units shall have a minimum of eight hundred (800) square feet of gross floor area.
6. A 50-foot principal building setback shall be provided for attached dwelling units adjacent to single-family residential districts and/or AG-1 districts. Accessory structures may be located in the rear and side yards only but shall not be located in a minimum yard.
7. Parking spaces shall be calculated as one and four tenths (1.4) spaces per dwelling unit.
8. No parking shall be allowed in the minimum front yard setback.
9. Senior facilities must be served by public water and sewer.
10. Landscape strips and buffers shall be provided as specified in the O-I district in Article 4.23
11. The property shall be deed restricted to senior housing except as provided for by Fair Housing laws.
12. Facility shall comply with all applicable local, state, and federal regulations and copies of any applicable permits shall be provided to the Department of Community Development prior to the issuance of a certificate of occupancy.
13. Projects are encouraged to incorporate Easy Living and applicable accessibility standards.(as administered and copyrighted by a coalition of Georgia citizens including AARP of Georgia, Atlanta Regional Commission, Concrete Change, Georgia Department of Community Affairs, Governor's Council on Developmental Disabilities, Home Builders Association of Georgia, Shepherd Center and the Statewide Independent Living Council of Georgia).
14. Housing shall have at least 80% of the occupied dwelling units occupied by at least one person who is 55 years of age or older which shall be verified by the property owner in a manner deemed acceptable pursuant to policies and procedures adopted by the Director of Community Development.
15. All units shall be owner-occupied.

19.4.42. *Skywalks.*

A. *Required Districts:* AG-1, O-I, MIX, C-1, C-2, M-1A, M-1,

B. *Standards:*

1. A minimum vertical clearance of 16 feet above all streets, and a minimum vertical clearance of 16 feet above the walkway shall be provided.
2. Ample space for the free flow of pedestrians with a 12-foot minimum walkway width shall be provided.
3. Prior to issuance of a building permit, a Bridge Agreement shall be filed with the Community Development Department as a condition of approval. The Community Development Department shall be responsible for the interpretation and application of the conditions set forth above and no building permit shall be issued by the Community Development Department except upon written approval of the Department of Public Works.

19.4.42(1). *Stadium (Offsite) Associated With a Private School.*

A. *Required Districts:* All

B. *Standards:*

1. Vehicular access is prohibited from a local street.
2. A minimum 200-foot buffer and 10-foot improvement setback shall be provided along all property lines adjacent to residential and AG-1 zoned properties.
3. The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. adjacent to residential and AG-1 zoned properties.
4. A 100-foot setback along any public right-of-way is required for all structures and activities.
5. The height limit of the zoning district shall apply to all structures unless a Use Permit to Exceed District Maximum Height is approved.

19.4.43. *Transfer Station, Solid Waste.*

A. *Required District:* M-1

B. *Standards:*

1. No access shall be allowed from local streets.
2. Access streets shall be paved and shall be able to withstand maximum load limits established by the State of Georgia as approved by the Director of Public Works.
3. No portion of a new transfer station shall be located within a three mile radius of the property lines of an existing transfer station.
4. A minimum 200-foot buffer and 10-foot improvement setback shall be required along all property lines except public rights-of-way.
5. A minimum 50-foot buffer and 10-foot improvement setback shall be required along all public rights-of-way.
6. A minimum 6-foot high solid fence or wall shall be located on property lines or interior to the required buffers and improvement setbacks.
7. Limit hours of operation from 6:00 a.m. to 6 p.m., Monday through Saturday.
8. The owner shall provide the Director of the Community Development Department a current copy of all applicable permits from the State of Georgia upon application for a Land Disturbance Permit.
9. In accordance with Article 28.4.3.2., submit an Environmental Impact Report as required.
10. No portion of a new or expanded solid waste transfer station shall be located within a one (1) mile radius of the property lines of a residentially zoned or used property. An expanded solid waste transfer station shall not include any expanded use within the parcel boundaries of an existing site or location.
11. Transfer stations shall be sited and operated in accordance with State Regulations 3891-3-4.06, Permit by Rule for Collection, Transportation, Processing, and Disposal, O.C.G.A. § 12-8-20 Georgia Comprehensive Solid Waste Management Act, Fulton County Solid Waste Management Plan, and Waste Transfer Stations: A Manual for Decision-Making (EPA R-02-002, June 2002).

19.4.44. *Open.*

ARTICLE XX. CONSERVATION SUBDIVISION ORDINANCE

Sec. 20.1. Purpose and Intent.

Sec. 20.2. Applicability of Regulations.

Sec. 20.3. Conservation Subdivision Density.

Sec. 20.4. Lot Requirements and Tract Size.

Sec. 20.5. Minimum Lot Frontage.

Sec. 20.6. Setbacks, Building Separation, and Architectural Standards Requirements.

Sec. 20.7. Exterior Buffer Requirements.

Sec. 20.8. Application Requirements.

Sec. 20.9. Definition of Open Space.

Sec. 20.10. Open Space Requirement.

Sec. 20.11. Open Space Configuration.

Sec. 20.12. Open Space and Conservation Areas.

Sec. 20.13. Primary Conservation Areas.

Sec. 20.14. Value of Primary Conservation Areas.

Sec. 20.15. Secondary Conservation Areas.

Sec. 20.16. Value of Secondary Conservation Areas.

Sec. 20.17. Open Space Protection.

Sec. 20.18. Requirements for Conservation Easements.

Sec. 20.19. Requirements for Permanent Restrictive Covenants.

Sec. 20.20. Maintenance of Open Space.

Sec. 20.21. Ownership of Open Space.

Sec. 20.22. Ownership of Open Space by a Homeowners Association.

Sec. 20.1. Purpose and Intent.

It is the purpose and intent of this ordinance to encourage preservation of open space within residential developments; provide flexibility to allow for creativity in developments; minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures; provide an interconnected network of permanent open space; encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation; enhance the community character; permit clustering of houses and structures which will reduce the amount of infrastructure, including paved surfaces and utility lines; encourage street design that controls traffic speeds and creates street inter-connectivity; and promote construction of convenient and accessible walking trails and bike paths both within a subdivision and connected to neighboring communities, businesses and facilities to reduce reliance on automobiles.

Sec. 20.2. Applicability of Regulations.

The Conservation Subdivision option shall require a Use Permit and is available for single-family detached residential developments in the following districts: AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A,

and R-5. Compliance with all applicable ordinances, regulations, or resolutions is required; however, when in conflict, the provisions of this ordinance shall prevail.

Sec. 20.3. Conservation Subdivision Density.

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

a. 50% of the Primary Conservation Areas.

b. Anticipated right-of-way for roads and utilities (minimum of 18% of gross tract area).

Sec. 20.4. Lot Requirements and Tract Size.

The minimum lot size in any project shall be 4,000 square feet. The total number of lots may not exceed the number of lots that could otherwise be developed under the existing zoning.

The minimum tract size for the overall development shall be 10 acres. The land shall not have been used for timber harvesting within the previous 24 months.

Sec. 20.5. Minimum Lot Frontage.

The minimum lot frontage on a right-of-way or private street shall be 20 feet.

Sec. 20.6. Setbacks, Building Separation, and Architectural Standards Requirements.

Setbacks, building separations, and architectural standards shall be established by the Use Permit and are subject to the provisions of the Building Code.

Sec. 20.7. Exterior Buffer Requirements.

A minimum 50-foot wide natural buffer, undisturbed except for approved access and utility crossings and replanting's where sparsely vegetated, plus a 10-foot improvement setback, shall be provided along all property lines adjacent to AG-1 zoned properties, residentially zoned properties, and existing roads, or as may be approved by the Director. The 50-foot wide buffer along the property frontage may include a 20-foot landscape strip and other entrance features.

Sec. 20.8. Application Requirements.

Site Analysis Map Required: Concurrent with the application of the Use Permit, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified and that the proposed Open Space will meet the requirements of this article. The site analysis map shall include the following features:

a. Property boundaries.

b. All streams, rivers, lakes, wetlands, and other hydrologic features along with applicable buffers.

c. Topographic contours of no less than 10-foot intervals.

d. All Primary and Secondary Conservation Areas labeled by type, as described in Sections 13 & 15 of this Article.

e. General vegetation characteristics.

f. General soil types.

g. The planned location of protected Open Space.

h. Existing and proposed roads and structures.

i. Frontage landscaping and entrance features.

j. Potential connections with existing greenspace and trails.

Open Space Management Plan Required: An Open Space Management Plan shall be prepared and submitted prior to the issuance of a land disturbance permit. The Applicant shall submit an Open Space Management Plan that:

a. Allocated responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements.

b. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided.

c. Provides for enforcement of the Open Space Management Plan.

Architectural Requirements: Include architectural elevations and floor plans of all proposed dwellings that illustrate house design and architectural treatments.

Instrument of Permanent Protection Required: An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, as described in Sections 17, 18, and 19, shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.

Other Requirements: The Applicant shall adhere to all other applicable requirements of the underlying zoning, Development regulations, and other applicable ordinances.

Sec. 20.9. Definition of Open Space.

Open Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument.

Sec. 20.10. Open Space Requirement.

Each conservation subdivision shall provide a minimum of 40% of its total gross acreage as open space as defined by this ordinance. The open space shall be designated on the site analysis map, development plan and subsequently recorded on the final plat.

Sec. 20.11. Open Space Configuration.

The minimum standards for open space are as follows:

a. The minimum width of any open space area is 25 feet.

b. All paths shall be a minimum of 20 feet from any overall project exterior property line except where inter-parcel access may be required.

c. All open space shall provide connectivity to any common areas within the development and to any adjacent public places/rights-of-way or as approved by the Director.

d. Paths located in primary conservation areas shall be constructed of pervious materials.

e. Where path networks cross internal subdivision streets or public streets, access points shall be directly across from each other or as approved by the Director.

f. Crossings and access points shall be clearly identified to pedestrians and motorists and may include traffic control devices, bridges and tunnels as approved by the Director.

g. Above-ground utility rights-of-way and small areas of impervious surface (i.e.: picnic table and benches) may be included within the protected Open Space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Impervious areas greater than 50 square feet shall be excluded from the Open Space.

h. At least 75 percent of the Open Space shall be in a contiguous tract. The Open Space shall adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.

Sec. 20.12. Open Space and Conservation Areas.

Open space shall be designated as either primary conservation areas or secondary conservation areas and shall remain natural and undisturbed except for permitted activities.

Sec. 20.13. Primary Conservation Areas.

Primary conservation areas form the core of the open space and are required to be included within the open space. Active recreation areas are prohibited in primary conservation areas unless approved by the Director. Primary conservation areas, as defined by this ordinance, include the following:

a. Cemeteries;

b. Habitats for endangered or threatened species as defined by the Georgia Department of Natural Resources;

c. Wetlands identified by the National Wetlands Inventory maps prepared by the U.S. Fish and Wildlife Service, the County Soil Survey prepared by the United States Department of Agriculture (USDA) Natural Resources Conservation Service, or a certified wetlands delineation using data from the U. S. Army Corps of Engineers;

d. Alluvial soils identified by the Federal Emergency Management Agency (FEMA) and 100-Year floodplain;

e. Lakes (natural and manmade), rivers, streams, existing ponds, creeks, including but not limited to blue line tributaries and state waters;

f. Riparian zones equal to any required stream buffers; stream buffers shall be a minimum of 75' undisturbed

g. Existing slopes greater than 25% on average with a site area greater than 5,000 square feet identified as part of a site analysis conducted by a registered engineer, land surveyor or landscape architect and calculated using topographic maps from the City of Johns Creek's GIS system or from a topographic survey prepared by a licensed land surveyor.

Sec. 20.14. Value of Primary Conservation Areas.

Because primary conservation areas are either protected or sensitive environmental areas, 100% of the acreage of a primary conservation area may be counted as open space.

Sec. 20.15. Secondary Conservation Areas.

Secondary conservation areas consist of undeveloped (unconstrained) but buildable land and protected (constrained) lands and may be included within the open space to the maximum extent feasible. Secondary conservation areas, as defined by this ordinance, include the following:

a. Farmlands (fields, pastures, meadows);

b. Woodlands and buffers except stream buffers;

c. Historic and/or archaeological sites as identified by the Fulton County Historic Resources Survey;

d. Passive recreation areas, public and private, to include pedestrian, bicycle and equestrian trails, picnic areas, community commons or greens, and similar areas;

e. Active recreation, playing fields, and playgrounds. Recreation areas with impervious surfaces (e.g., tennis courts, basketball courts and pools) and golf courses shall be excluded.

Sec. 20.16. Value of Secondary Conservation Areas.

With the exception of active recreation areas and facilities, 100% of secondary conservation areas may be counted as open space. Because active recreation areas are cleared and graded and therefore reduce natural resources and wildlife habitats, only 50% of active recreation , excluding impervious surfaces, may be counted as open space.

Sec. 20.17. Open Space Protection.

The required open space areas shall be protected in perpetuity from further development or unauthorized use by a conservation easement or permanent restrictive covenant (per O.C.G.A. Section 44-5-60(c)). The City of Johns Creek reserves the right to enforce all restrictive covenants and conservation easements.

Sec. 20.18. Requirements for Conservation Easements.

The conservation easement(s) shall:

a. Clearly delineate primary and secondary conservation areas;

b. Describe the features of the subject property that should be permanently protected in accordance with The Georgia Uniform Conservation Easement Act, O.C.G.A. 44-10-1 et seq.;

c. List the parties, that is, the owner(s) of the property and the holder of the easement;

d. Specify how the easement may be transferred as in the case of a homeowners association dissolving;

e. Clearly identify the boundaries of the property by survey and a metes and bounds legal description;

f. Clearly list restrictions;

g. Provide for inspections of the property by the owner, the holder of the easement and the City of Johns Creek;

h. Provide for maintenance of the property;

i. Be shown on a certified survey and duly recorded with the Clerk of Superior Court prior to the issuance of a Land Disturbance Permit;

j. Provide for amendments only with the express written permission of the property owner(s), the holder of the easement and Johns Creek. Amendments to the easement shall be filed with the Director and shall be recorded in Superior Court.

Sec. 20.19. Requirements for Permanent Restrictive Covenants.

The permanent restrictive covenant(s) shall:

a. Clearly delineate primary and secondary conservation areas;

b. Describe the features of the subject property that should be permanently protected;

c. Clearly identify the boundaries of the property by survey and a metes and bounds legal description;

d. Clearly list restrictions;

e. Provide for inspections of the property by Johns Creek;

f. Provide for maintenance of the property;

g. Be shown on a certified survey and duly recorded with the Clerk of Superior Court prior to the issuance of a Land Disturbance Permit; and

h. Provide for amendments only with the express written permission of the property owner(s) and The City of Johns Creek. Amendments to the covenant shall be filed with the Director and shall be recorded in Superior Court.

Sec. 20.20. Maintenance of Open Space.

Open space may be maintained and/or improved through reforestation, pasture management, buffer replanting's, stream bank protection and wetlands management or by other means as approved by the Director.

Sec. 20.21. Ownership of Open Space.

All open space shall be permanently protected and held in fee simple interest by a qualified conservation organization as defined in The Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1 et seq., or a homeowners association established in accordance with the Georgia Property Owners Association Act, O.C.G.A. § 44-3-220 et seq., or a land trust.

Sec. 20.22. Ownership of Open Space by a Homeowners Association.

Open space that is owned by a homeowners association is subject to the following:

a. Prior to the approval of the final plat, the developer of a conservation subdivision shall submit to the Director a description of the homeowners association, including by-laws, and methods for maintaining the open space.

b. Membership of each lot owner in the conservation subdivision shall be mandatory.

c. The homeowners association shall be responsible for maintenance, insurance, and taxes on the open space.

d. The homeowners association shall not be dissolved before providing the appropriate documentation to transfer conservation easements.

e. Any transfer of conservation easements is subject to the approval of the Director.

ARTICLE XXII. APPEALS

Sec. 22.1. Purpose.

Sec. 22.2. Decision Making Authority.

Sec. 22.3. Variances.

Sec. 22.4. Administrative Variance.

Sec. 22.5. Administrative Minor Variance.

Sec. 22.6. Minor Variance.

Sec. 22.7. Primary Variance.

Sec. 22.8. Secondary Variance/Interpretation.

Sec. 22.9. Concurrent Variances.

Sec. 22.10—22.12. Reserved.

Sec. 22.13. General Procedures.

Sec. 22.14 Board of Zoning Appeals.

Sec. 22.1. Purpose.

The purpose of this article is to establish procedures for appealing the strict application of regulations contained herein and conditions of zoning when those regulations impose a hardship on the development of the property, and to provide for interpretation of the text of this Ordinance and the Official Zoning Map. Appeals are authorized herein to be considered by various bodies and individuals depending on the type of appeal and its relationship to applications for Use Permits or Rezonings. Variances apply to the development standards and district standards per the Zoning Ordinance.

Sec. 22.2. Decision Making Authority.

The following are the powers and jurisdiction of the various decision makers and administrative bodies.

22.2.1. *Mayor and City Council.* The Mayor and City Council shall have the following powers and duties under the provisions of this Zoning Ordinance:

A. To hear and decide applications for rezonings and use permits pursuant to Article 22 and Article 28

B. To hear and decide applications for concurrent variances in conjunction with applications for rezonings and use permits pursuant to Article 22 and Article 28; and

C. To initiate a modification of approved zoning conditions.

22.2.2. *Board of Zoning Appeals (BZA).* The Board of Zoning Appeals (BZA) shall have the following powers and duties under the provisions of this Zoning Ordinance:

A. To hear and decide applications for primary variance requests;

B. To hear and decide appeals from the interpretation of any of the provisions of this Ordinance by the Director of the Department of Community Development in accordance with Section 22.2.3.F;

C. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by any City of Johns Creek official in the enforcement of this Zoning Ordinance and;

D. To hear and decide appeals from a permitting or procedural decision of the Department Director or Deputy Director regarding minor or administrative variance requests.

22.2.3. *Director of the Department of Community Development.* The Director of the Department of Community Development shall have the following jurisdiction, power and duties under the provisions of this Zoning Ordinance:

A. To determine the type of appeal application or land use process the property owner/agent is required to apply for;

B. To consider and decide on minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as property owners with standing do not object;

C. To consider and decide on administrative minor variances of no more than 1 foot;

D. To consider and decide on administrative variances;

E. To interpret the provisions of the Zoning Ordinance related to the following:

1. Inconsistent, vague or obscure language;

2. Provisions which are in conflict or are confusing; and

3. Conflicting or redundant procedural requirements; and.

F. To establish procedural requirements for review of appeal applications.

22.2.4. *Limitation on Authority.* The authority and jurisdiction of Boards and individuals as provided herein shall be limited as outlined in the following. In exercising this jurisdiction, each hearing Board or individual shall have authority to determine whether it has jurisdiction.

A. There shall be no variances to permitted uses or accessory uses as specified in the zoning district regulations, administrative/use permit or zoning conditions.

B. There shall be no variances to the minimum lot area nor the minimum district size required in each zoning district.

C. There shall be no variances to the minimum lot frontage on a street as required in designated zoning districts of the Zoning Ordinance.

D. There shall be no variances to conditions of rezoning or Use Permits. Changing conditions of rezoning or Use Permits requires rezoning pursuant to Article 28

E. There shall be no relief or variance from the standards of Article 22 or Article 28

Sec. 22.3. Variances.

A variance is a request for relief from the provisions of the Zoning Ordinance. There are 6 types of variance applications. The type of variance necessary shall be determined by the Director of the Department of Community Development. The different types of appeals are listed below and described in the following sections:

1. Administrative Variance

2. Minor Variance/Administrative Minor Variance
3. Primary Variance
4. Secondary Variance
5. Interpretation
6. Concurrent Variance

22.3.1. *Variance Considerations.* Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:

A. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or

B. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or

C. Variances to Article 33 shall be in accordance with the standards enumerated therein.

Sec. 22.4. Administrative Variance.

The Director of the Department of Community Development is authorized by this Ordinance to consider an Administrative Variance whenever: (1) a property owner maintains that a provision contained in Chapter 113 (Code of Ordinances), Development Regulations, as applied to a specific situation, is not in the best interest of the public health, safety and welfare; (2) whenever there is a request for the alteration of the 10 foot improvement setback required along all buffers as required in the conditions of zoning and/or in Article 4.23.1. Minimum Landscape Strips and Buffers; and (3) whenever there is a request up to a 10% reduction in the number of required parking spaces per Article 18.2.3, Administrative Reduction of Spaces Constructed.

The authority to grant an administrative variance pursuant to this Section and Section 22.5 and 22.6 is not mandatory. If a request for an administrative variance is submitted by an applicant and the Director of Community Development does not issue a decision within thirty (30) days from the date of submission, the request shall be deemed to have been denied and the applicant may request an appeal for a Secondary variance/interpretation pursuant to Section 22.8. At any time during the 30-day period but prior to the issuance of a decision regarding the administrative variance, the applicant may request an appeal for a Primary variance pursuant to Section 22.7

Approval of an administrative variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

Sec. 22.5. Administrative Minor Variance.

The Director of Community Development may grant an Administrative Minor Variance up to 1 foot from any minimum yard requirement. Approval of an administrative minor variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

Sec. 22.6. Minor Variance.

The Director of Community Development may grant minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as no objection has been submitted in writing to

the Director of Community Development. An appeal to a minor variance decision must be filed as a Secondary Variance request. Approval of a minor variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

Sec. 22.7. Primary Variance.

A request for a variance from any Zoning Ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the Board of Zoning Appeals in accordance with Section 22.3.1.

Sec. 22.8. Secondary Variance/Interpretation.

The Board of Zoning Appeals shall consider appeals of variance decisions and interpretations made by any Department Director or Deputy Department Director authorized to grant a variance request or interpretation. This type of appeal is considered a secondary variance.

Sec. 22.9. Concurrent Variances.

The Mayor and City Council may consider a concurrent variance from any standards of the Zoning Ordinance which shall be filed simultaneously with rezoning, use permit or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The Planning Commission shall also hear and make recommendations on concurrent variances filed with rezonings or use permit applications. The Mayor and City Council shall consider such concurrent variance requests in accordance with the standards set forth in Section 22.3.1. Public notification shall be in accordance with Sections 22.13.9 and 28.3.

22.9.1. *Limitations on Concurrent Variances.*

A. The Mayor and City Council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit or modification application.

B. If an application for a variance to the Board of Zoning Appeals duplicates a concurrent variance request denied by the Mayor and City Council, such an application shall not be accepted by the Director of the Department of Community Development prior to the expiration of 6 months from the date of the Mayor and City Council' denial of the variance request. A variance request to the Board of Zoning Appeals cannot be considered simultaneously with the same variance request pending before the Mayor and City Council.

22.9.2. *Application for Concurrent Variances.* Applications for a concurrent variance shall be submitted to the Director of the Department of Community Development in accordance with the advertised filing deadlines for the Mayor and City Council meetings. A regular variance fee shall be charged and the application shall comply with all advertising and notification requirements specified in Article 28, Rezoning and Other Amendment Procedures. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending.

The variance case file number for each concurrent variance requested shall be included on the rezoning petition.

Sec. 22.10—22.12. Reserved.

Sec. 22.13. General Procedures.

This section contains basic steps common to all variances.

22.13.1. *Applications.* All applications for variances, and interpretations shall be filed with the Director of the Department of Community Development on forms available in the Department. The type of application process necessary to accomplish the change requested by the applicant shall be the determined by the Director of Community Development. The Director shall transmit the petition and all documents constituting the record to the appropriate hearing body or individual.

22.13.2. *Standing.* Standing refers to a party or parties allowed to initiate a request for variances or modifications which are limited to the following:

A. *Variance Petition.* A request for a variance may be initiated by the property owner of subject property or its agent;

B. *Secondary Variance Petition.* A request for a secondary variance appeal may be initiated by the property owner of the subject property or its agent, or the owner of other real property within 300 feet of the boundaries of the subject property; and

C. *Interpretation Petition.* A request for an interpretation of a decision of the Director of the Department of Community Development may be requested by any individual.

22.13.3. *Filing Deadlines.*

A. Applications for variances, interpretations requiring public hearings shall be submitted in accordance with the advertised filing deadlines, depending on the type of petition in accordance with Section 28.2.3 of the Zoning Ordinance.

B. Concurrent Variance applications shall be filed in accordance with the filing deadline for the parent petition of either a use permit, rezoning, or zoning modification request in accordance with Section 28.2.3 of the Zoning Ordinance.

C. The Director of the Department of Community Development has the discretion to extend the filing deadline by two days for all applications. A letter from the applicant explaining the delay in filing shall be submitted prior to the close of the filing deadline.

22.13.4. *Withdrawal of Application.*

A. An application may be withdrawn by the applicant in writing at any time before the public hearing notice advertisement is published and /or the notice of the hearing is posted on the property.

B. Applications which do not require a public hearing may be withdrawn at any time before notification of a decision is mailed.

C. Once the public hearing has been properly advertised, the request for withdrawal of the application must be placed on the public hearing agenda and the appropriate decision-making body shall act on the withdrawal request.

22.13.5. *Fees.* At the time of application, applicants shall pay fees as established by the Mayor and City Council. Fees paid are not refundable except where the Director of the Department of Community Development determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

22.13.6. *Legal Action Stayed.* The filing of an appeal authorized by this Article shall operate as a stay of any enforcement proceedings by the City of Johns Creek until final ordinance of the appeal.

No Mayor and City Council or Board of Zoning Appeals action shall be taken on any property which is the subject of any litigation pending in state or federal court wherein the City of Johns Creek or its agents or officials are parties.

22.13.7. *Public Hearing.* A public hearing shall be conducted by the stated hearing body of each appeal application before taking action thereon except those authorized to be considered administratively. The schedule of public hearings and deadlines for the filing of an appeal shall be established by the Mayor and City Council.

Public hearings are not required for administrative variances, minor variances, administrative minor variances and administrative modifications; however, notification in accordance with Section 22.13.9 B is required.

22.13.8. *Evaluations and Reports.* The hearing body shall have before it, at the time of hearing, a report from the Director of the Department of Community Development which shall summarize the hardship or justification reported by the applicant as related to the application and background information for variances, modifications, and interpretations, and any other information requested by the hearing body. The hearing body shall, hear, analyze, consider, and make a written report of its decision in accordance with Section 22.13.12, Notice of Decisions.

22.13.9. *Public Notification.*

A. For applications requiring a public hearing (Primary Variances, Secondary Variances, Concurrent Variances), the \ Community Development Department shall ensure:

1. A notice of the public hearing is published in a newspaper of general circulation at least 15 days, but no more than 45 days prior to the public hearing at which an application will be heard. The published notice shall contain the time, place and purpose of the hearing and the location of the property if applicable (secondary variances may not always be property specific). Renotification is not required when a petition is deferred;

2. A sign is posted in a conspicuous location on each public street frontage of the subject site, at least 20 days, but not more than 45 days, prior to the public hearing at which an application will be heard;

3. Property that is not posted on the 20th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final action by the appropriate hearing body is taken.

4. If the Board of Zoning Appeals defers a petition for more than 20 days, an updated sign is required to be posted with new hearing dates. If a petition is deferred by the Board of Zoning Appeals for less than 20 days, posting an updated sign is not required.

5. The posted sign shall contain the date, time, place and purpose of the hearing,

6. The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative;

7. Notice of the public hearing shall be postmarked 15 days prior to the hearing date and shall be given by regular mail to all property owners within 300 feet of the boundaries of the property who appear on the current tax records of the City of Johns Creek as retrieved by the City's Geographic Information System. Renotification is not required when a petition is deferred by the Mayor and City Council or the Board of Zoning Appeals; and

8. The mailing of public notices is not required when a secondary variance is sought by other than the property owner.

B. For those applications not requiring a public hearing, notification shall be provided as follows:

1. *Administrative Variance:* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3);
2. *Minor Variance:* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3);and
3. *Administrative Minor Variance:* No written notification.

22.13.10. *Decisions.* The Mayor and City Council, Board of Zoning Appeals, and the Director of the Community Department in considering applications under this Article shall do one of the following:

A. Approve or partially approve;

B. Approve and impose conditions related to the application being considered;

C. Deny;

D. Hold for further study not less than 30 days; or

E. Withdraw.

22.13.11. *Board of Zoning Appeals Decision on Secondary Variances/Interpretations.* The Board of Zoning Appeals may take the following actions pursuant to a secondary variance and/or an interpretation appeal:

A. Affirm an order, requirement, or decision, wholly or partly;

B. Reverse an order, requirement, or decision, wholly or partly; or

C. *Clarify.* Present an interpretation of the text in the form of a statement of clarification. Such statement shall not contain substitute language, but shall rely upon language and definitions contained in the City of Johns Creek Zoning Ordinance, The Latest Illustrated Book of Development Definitions and definitions contained in Merriam-Webster Collegiate Dictionary, tenth edition or later edition.

22.13.12. *Notice of Decisions.* Written notice of all decisions shall be placed in the official case file and shall be forwarded to the applicant by regular mail within 7 working days from the date of the decision by the following authority:

A. The Director of the Community Development Department shall provide written notification of the Board of Zoning Appeals' decisions;

B. The Director of the Community Development Department shall, with respect to minor variances, administrative variances, and administrative modifications provide written notification of such decisions. The approval of a building permit shall constitute notice of approval for an administrative minor variance; and

C. The Clerk to the Mayor and City Council shall, with respect to zoning modifications and concurrent variances, provide written notification of the Mayor and City Council' decisions.

22.13.13. *Reconsideration of Denied Application.*

A. If a variance or modification application is denied by an authorized Department Director, Mayor and City Council or the Board of Zoning Appeals, an application for the same variance or modification item shall not be considered until:

1.. At least six months has elapsed from the date of the decision; or

2. New information pertinent to the subject, not previously considered, is submitted by the petitioner and the 6-month period is waived by the hearing body.

B. If an application is denied by the Director of the Community Development Department, the applicant may appeal the decision to the appropriate hearing body depending on the type of petition.

This provision is not intended to supersede provisions of Article 28.2 as related to decisions regarding rezonings and/or use permits.

22.13.14. *Time Limitation on Appeals to Superior Court.* The decision of the Board of Zoning Appeals is a final decision; therefore, any appeal of such a decision shall be pursued by application for writ of certiorari filed with the Superior Court of Fulton County within 30 days of the date of the decision. The applicant's petition, application for writ of certiorari, the writ of certiorari and any other initials filings with the Superior Court shall be served upon the named defendants/respondents in accordance with O.C.G.A. Section 9-11-4.

Upon filing such an appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director of the Community Development Department, and within 30 days from the date of such notice, the Director of Community Development shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings and the decision of the Board of Zoning Appeals.

Appeals of decisions (Secondary Variances/Interpretation) of the Director of the Community Development Department, or the Director of Public Works shall be brought within 30 days from the date of the decision.

22.13.15. *Expiration of Variance.* If not used, a variance shall be valid only for a period of 36 months from the date it is granted.

Sec. 22.14 Board of Zoning Appeals.

22.14.1. *Membership.* The City of Johns Creek Board of Zoning Appeals shall consist of seven members appointed by the Mayor and City Council of the City of Johns Creek. The members shall serve terms concurrent with the terms of the City of Johns Creek Planning Commission. Members shall not hold any other public office or position in the City of Johns Creek. Annual elections shall be held by the Board of Zoning Appeals to elect one of its members chairperson for a one-year term. The chairperson may serve an unlimited number of one-year terms.

22.14.2. *Vacancies.* Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

22.14.3. *Removal of Members.* Members may be removed for cause by the Mayor and City Council of the City of Johns Creek upon written charges and after a public hearing.

22.14.4. *Pay.* Fees to be paid to the members of the City of Johns Creek Board of Zoning Appeals for attending official meetings shall be fixed from time to time by the Mayor and City Council of the City of Johns Creek.

22.14.5. *Secretary.* The Director of the Department of Community Development shall serve as Secretary to the Board of Zoning Appeals. The Secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examinations and official actions, all of which shall be filed and shall be a public record.

22.14.6. *Policies and Procedures.* The City of Johns Creek Board of Zoning Appeals shall adopt and publish policies, procedures and rules in keeping with the provisions of this ordinance. Such shall be available in the Community Development Department.

22.14.7. *Meetings.* Meetings of the Board of Zoning Appeals shall be held at least once each month to dispose of matters scheduled. Additional meetings may be called by the chairman. The Board of Zoning Appeals scheduled meetings, places and dates, and deadlines for the filing of applications shall be approved by the Mayor and City Council and published by the Director of the Community Development Department.

ARTICLE XXIII. OCCUPANCY CERTIFICATE

Sec. 23.1. Certificate of occupancy.

Sec. 23.1. Certificate of occupancy.

A Certificate of Occupancy, indicating that a building, lot and use comply with the Building code and this Zoning Ordinance is required under provisions of the City of Johns Creek Building Code. Said Certificate of Occupancy shall be posted on site where it is visible for inspection for a period of 30 days from the date of issuance.

Any owner, authorized agent, or contractor who desires to change the use of a building or structure shall first make application to the building official, obtain the required permits, and obtain a Certificate of Occupancy prior to occupying said structure.

ARTICLE XXIV. PLANS AND INSPECTIONS

Sec. 24.1. Single-Family Dwelling Plans.

Sec. 24.2. Inspections.

Sec. 24.1. Single-Family Dwelling Plans.

Applications for building permits for single-family dwellings shall be accompanied by two copies of a plot plan. Applications for building permits and land disturbance permits other than single-family dwellings shall respond to the plan requirements set forth by the Community Development Department. Plot plans shall be based on a boundary line survey and drawn to scale. One copy of the plot plan shall be returned to the owner when plans have been approved by the Community Development Department. Plot plan shall show:

A. The exact location of temporary and permanent pins, monuments and stakes used to mark the boundary.

B. The exact footprint of existing and proposed buildings and their structures, and the footprint of proposed alterations and additions.

C. The existing and proposed use of each building and other structure or part thereof,

D. The required number of parking spaces, and their locations,

E. Other information as may be necessary to determine compliance with this Ordinance.

Sec. 24.2. Inspections.

Prior to pouring footings, the owner shall notify the Department of Community Development to conduct an inspection to determine that space for required setbacks are available on the site. This inspection shall, in no way, relieve the owner of total responsibility for complying with all provisions of the Ordinance.

ARTICLE XXVI. INTERPRETATION, CONFLICT AND ENFORCEMENT

Sec. 26.1. Interpretation.

Sec. 26.2. Conflict.

Sec. 26.3. Enforcement.

Sec. 26.4. Permits in effect.

Sec. 26.1. Interpretation.

The Director of the Community Development Department shall interpret the provisions to this Ordinance, and may utilize opinions of the City Attorney and others in arriving at interpretations. Appeals from an interpretation of the Director of the Community Development Department shall be in accordance with the provisions of Article XXII.

Sec. 26.2. Conflict.

This Ordinance shall abrogate any other regulations previously adopted or issued that are in conflict with any of the provisions of this Ordinance relating to the use of buildings or land in conflict with this Ordinance. This Ordinance shall not annul any easements, covenants or other agreements between parties; provided, however, that whenever this Ordinance imposes a greater restriction upon the use of buildings or land than are imposed by such easements, covenants or agreements, the provisions of the Ordinance shall control.

Sec. 26.3. Enforcement.

It shall be the duty of the Director of the Community Development Department to enforce the provisions of this Ordinance. In addition, it shall be the duty of all officers and employees of the City, to assist the Director of the Department of Community Development by reporting to him any seeming violations including violations in new construction, reconstruction, and/or land uses including signs. Appeals from the decision of the Director of the Department of Community Development shall be made as provided in Article XXII, Appeals.

Sec. 26.4. Permits in effect.

Nothing herein shall require any change in the plans, construction, size or designated use of any land, building, structure or part thereof for which a building permit or land disturbance permit was issued prior to the effective date of this Ordinance or amendment thereto.

ARTICLE XXVIII. REZONING AND OTHER AMENDMENT PROCEDURES

Sec. 28.1. General Amendments.

Sec. 28.2. Land Use Petitions.

Sec. 28.3. Public Hearing and Notice Requirements.

Sec. 28.4. Technical Evaluations and Reports.

Sec. 28.5. Conditional Development.

Sec. 28.6. Zoning Maps.

Sec. 28.7. Applicable Regulations.

Sec. 28.8. Petition Fees.

Sec. 28.9. Procedures for Modification of Zoning Conditions.

ARTICLE XXIX. VIOLATION AND PENALTY

Sec. 29.1. Violation.

Sec. 29.2 Penalty.

ARTICLE XXVIII.

REZONING AND OTHER AMENDMENT PROCEDURES

Sec. 28.1. General Amendments.

Whenever the public necessity, convenience, general welfare or good zoning practice justify such action, and after consideration by the Planning Commission, the Mayor and City Council may, by resolution, change the regulations set forth in this Zoning Ordinance (text amendment) or amend the Zoning Maps. Text Amendments may be initiated by either the Mayor and City Council or by the Community Development Department.

In amending the Zoning Maps, the Mayor and City Council may approve a use permit and/or zoning district applied for by the applicant or a more restrictive zoning district based on the ranking of the City of Johns Creek zoning district intensities. The Mayor and City Council may consider a variance filed concurrently with a request for a rezoning and/or use permit.

In approving any zoning district change and/or use permit, the Mayor and City Council shall impose conditions of approval as deemed necessary and appropriate to mitigate potentially adverse influences or otherwise promote the public health, safety or general welfare.

Rezonings and/or use permit requests are referred to in this text as land use petitions. All land use petitions approved by the Mayor and City Council are subject to conditions approved by the Mayor and City Council.

Sec. 28.2. Land Use Petitions.

Land use petitions may be initiated by the property owner or the Mayor and City Council on forms available from the Department.

No final action shall be taken on a rezoning affecting the same parcel more often than once every 12 months when the petition is initiated by the property owner. The withdrawal of a land use petition does not constitute a final action.

At any time, the Mayor and City Council may initiate a land use petition on property which was previously rezoned. However, a six-month waiting period from the date of final Mayor and City Council action is required when a rezoning and/or use permit request was previously denied.

If a petition was previously denied, the owner must demonstrate that the proposed land use petition is significantly different from the previous denial to the satisfaction of the Mayor and City Council before it can be considered for a reinitiation. A significant difference includes, but is not limited to a change in zoning district, use, density, height, buffers or other methods of screening, or other items which were discussed at a public hearing.

Appeals to Superior Court. Any appeal of, or other legal challenge to, a Mayor and City Council's final decision regarding a use permit petition shall be pursued by petition for writ of certiorari filed with the Superior Court of Fulton County within 30 days of the date of the Mayor and City Council's decision. The applicant's petition and all other initial filings with the Superior Court shall be served upon the named defendants/respondents in accordance with O.C.G.A. § 9-11-4.

Upon filing such appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director, and within 30 days from the date of such notice, the Director shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings before the Mayor and City Council and the decision of the Mayor and City Council.

28.2.1. *Filing Deadlines.* A complete land use petition shall be submitted in accordance with the advertised filing deadlines. The Director may extend the filing deadline by two days with a letter of explanation from the applicant justifying the delay of submittal. An incomplete petition will not be accepted.

28.2.2. *Withdrawal Prior to Advertising.* If a land use petition has not been advertised for public hearing, a written request for withdrawal with the reason for the request shall be made to and accepted by the Director. No refunds of petition fees will be made.

28.2.3 *Withdrawal After Advertising.* -After a land use petition has been advertised, it may be withdrawn only with the approval of the Mayor and Council. All applications, having been advertised, shall be considered by the Planning Commission and Mayor and City Council.

28.2.4. *Petition Requirements.* All petitions shall include the following with the required number of copies of each as prescribed by the Director:

(1) Signed and notarized petition with original signatures;

(2) Legal Description;

(3) Letter of Intent;

(4) Site plan which meets the requirements specified in Article 28.5.2;

(5) Environmental Site Analysis;

(6) Impact Analysis for rezoning petitions;

(7) Disclosure Form;

(8) Public Participation Plan;

(9) Public Participation Report;

(10) Traffic Study, if applicable;

(11) Metropolitan River Protection Act Pre-Review Letter, if applicable;

(12) MARTA Corridor Plan Review Form, if applicable;

(13) Development of Regional Impact Review Form, if applicable;

(14) Environmental Impact Report, if applicable;

(15) Noise Study Report, if applicable;

(16) Other documents as required by the Department; and

(17) Non-refundable filing fee;

Sec. 28.3. Public Hearing and Notice Requirements.

Before adopting any change to the Zoning Maps or text of the Zoning Ordinance, the Mayor and

City Council shall hold a public hearing following the public hearing by the Planning Commission where a recommendation was made on the petition.

Notice of the Planning Commission and Mayor and City Council hearings shall be given simultaneously at least 15 days but not more than 45 days prior to the date of the Mayor and City Council's public hearing and shall be published in a newspaper of general circulation. Renotification is not required when a petition is deferred by the Mayor and City Council.

A sign shall be posted in a conspicuous location on each public street frontage of the subject property not later than on the 20th day prior to the Planning Commission Hearing.

If the Planning Commission or the Mayor and City Council defers a petition for more than 20 days, an updated sign is required to be posted with new hearing dates. If a petition is deferred for less than 20 days, posting an updated sign is not required.

Notice by regular mail to all property owners within 300 feet of the boundaries of the subject property who appear on the tax records of Fulton County as retrieved by the City's Geographic Information System. The notices shall be mailed a minimum of 15 days prior to the hearing date. Renotification by mail is not required when a petition is deferred.

The published and mailed notices shall contain the time, place, and purpose of the hearing, the location of the property, and the present and proposed zoning classifications and/or requested use permit. The posted sign shall include all of the items required in the published notice except the location of the property. Notice shall not be considered inadequate if the mail is not delivered.

28.3.1. *Secretary.* The Director or his/her appointee shall serve as Secretary to the Planning Commission. The Secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examinations and official actions, all of which shall be filed and shall be a public record.

Sec. 28.4. Technical Evaluations and Reports.

Proposed land use petitions shall be considered by the Mayor and City Council only after the evaluations and reports required below have been completed and the Planning Commission has made a recommendation. Such reports shall be public record.

28.4.1. *Zoning Impact Analysis by the Planning Commission and the Department.* For each rezoning petition, the Planning Commission and the Department shall investigate and make a recommendation with respect to the factors listed below. The Department shall make a written record of its investigation and recommendation on each rezoning petition, as well as any other factors it may find relevant, and carry out any other duties with which it is charged by the Mayor and City Council.

The Planning Commission shall make a recommendation which the Department shall transmit in writing to the Mayor and City Council. Following the Planning Commission meeting, there should be no changes to the submitted site plan other than those to conform to the recommendations of the Planning Commission. Any such changes shall be submitted by the Wednesday preceding the City Council Hearing and failing to abide by these requirements should result in a deferral by the City Council.

The zoning impact analysis factors are as follows:

A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent

or nearby property;

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

D. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools;

E. Whether the zoning proposal is in conformity with the policies and intent of the land use plan;

F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal; and

G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek.

28.4.2. *Zoning Impact Analysis by Applicant.* If a rezoning is initiated by the property owner, a written documented analysis of the impact of the proposed zoning with respect to each of the matters enumerated in 28.4.1 is required at the time of filing the land use petition.

28.4.3. *Environmental Reports.* If a rezoning and/or use permit is initiated by the property owner, an Environmental Site Analysis and/or an Environmental Impact Report shall be filed with the land use petition per the following:

28.4.3.1. *Environmental Site Analysis (ESA).* All rezoning and/or use permit petitions shall include an Environmental Site Analysis to identify environmental conditions on the site to determine if the proposed use may be considered environmentally adverse.

The Environmental Site Analysis shall detail the following:

1. How the project conforms to the Comprehensive Land Use Plan;

2. The presence or absence of the following and does the project encroach or adversely affect any of the following:

a. Wetlands;

b. Floodplains;

c. Streams/stream buffers;

d. Slopes exceeding 25 percent over a 10 ft. rise in elevation;

e. Vegetation (including endangered species; areas of confirmed Georgia Department of Natural Resources listed endangered species shall comply with the Federal Endangered Species Act);

f. Wildlife species (including fish and endangered species; areas of confirmed Georgia Department of Natural Resources listed endangered species shall comply with the Federal Endangered Species Act);

g. Archeological/historical sites;

3. How the project implements the following:

   a. Protection of environmentally sensitive areas (floodplains, slopes exceeding 25 percent, river corridors);

   b. Protection of water quality;

   c. Minimization of negative impacts on existing infrastructure;

   d. Minimization of negative impacts on archeological/historically significant areas;

   e. Minimization of negative impacts on environmentally stressed communities;

   f. Creation and preservation of green space and open space;

   g. Protection of citizens from the negative impacts of noise and lighting;

   h. Protection of parks and recreational green space;

   i. Minimization of impacts to wildlife habitats;

28.4.3.2. *Environmental Impact Report (EIR).* Any petition for an industrial rezoning and/or use permit shall include an Environmental Impact Report to determine if the proposed use is environmentally adverse.

The Environmental Impact Report shall detail the following:

1. Conformance to the Comprehensive Plan including each of the policies regarding environmental justice;

2. Impacts on noise levels of the surrounding area;

3. Impacts on air quality of the surrounding area;

4. Impacts on water quality/resources including surface water, ground water, flood plains, and wetlands;

5. Impacts on vegetation, fish, and wildlife species and habitats;

6. Impacts of thermal and explosive hazards on the surrounding area;

7. Impacts of hazardous wastes on the surrounding area; The report shall cite all uses and quantities of any agents listed on the Federal Environmental Protection Agency Lists of Hazardous Wastes.

The Environmental Impact Report shall detail strategies to mitigate or avoid impacts listed above as applicable.

28.4.3.3. Review Criteria for ESA and/or EIR. Environmental Site Analysis and/or Environmental Impact Reports shall be reviewed based upon the following:

1. Whether the petition is consistent with the policies of the Comprehensive Land Use Plan;

2. The detail provided for ESAs and EIRs as outlined in Sections 28.4.3.1. and 28.4.3.2. above.

The Department shall review the ESAs and EIRs submitted with petitions for rezoning and/or use permits and make recommendations to the Mayor and City Council with respect to the proposed use. The anticipated impact of the proposed use on an environmentally stressed community will be included in the Department's recommendation.

As determined by the Director or his/her designee, Environmental Impact Reports may also be required with applications for land disturbance permits, building permits, temporary or permanent certificates of occupancy, or any other permits issued by the Department Community Development.

28.4.4. *Traffic Impact Study.* A peak-hour trip generation estimate shall be provided for all land use petitions at the time of submittal. A Traffic Impact Study is required when a land use petition equals or exceeds the thresholds indicated in the Department's Rezoning, Use Permit & Concurrent Variance Application Package. The study shall be prepared by a certified traffic engineer or transportation planner in accordance with professional practices and must be submitted in accordance with the approved schedule.

28.4.5. *Development of Regional Impact Study (DRI).* A Development of Regional Impact Study is required when a land use petition meets or exceeds the thresholds indicated in the Department's Rezoning, Use Permit & Concurrent Variance Application Package. Form 1: Initial DRI Information must be submitted at the time of the filing of the land use petition.

28.4.6. *Noise Study Report.* A noise study shall be performed, by a state registered professional engineer or noise professional, if a proposed site is located within 1,000 feet of an expressway or within 3,000 feet of an active rail line. An expressway is defined as a highway facility usually having two or more lanes for the exclusive use of traffic in each direction and partial control of access (i.e. I-85, I-285 and GA-400).

1. The noise study shall include an analysis of the proposed use with respect to existing ambient noise, that is, business and industry noise, aircraft noise, roadway noise, and construction noise.

2. If the noise study results in a day-night average sound level greater than 65 dBA, the applicant shall provide a sound attenuation plan specifying the type of noise buffering measures/materials to be employed during construction that will reduce the interior residential noise levels to 50 dBA or less.

3. The sound level readings shall be measured at a distance from the site to the noise source. The measurement should be from the source to the nearest points on the site where structures having noise sensitive uses are located. These points shall be labeled as the NAL (noise assessment locations). The measurement location for structures is a point 6.5 feet from the facade. In the event that the location of the structures has not yet been specified at the time of the noise study, then the distance used in the noise study should be measured as 6.5 feet less than the distance from the structure setback line to the major source(s) of noise. (Reference: Title 24, Housing & Urban Development, Part 51 - Environmental Criteria and Standards, Subpart B - Noise Abatement and Control, Section 51.103) Criteria and Standards (c) Exterior standards.

28.4.7. *Public Participation Plan and Report.* The Public Participation Plan is to ensure that applicants pursue early and effective public participation in conjunction with their petitions, ensure that the citizens of the City of Johns Creek have an adequate opportunity to learn about petitions that may affect them, and to ensure ongoing communication between applicants, adjoining property owners, environmentally stressed communities, community associations and other organizations, elected officials and City staff. Potentially affected parties should be discussed by the applicant and current planner at the time of the pre-application review. Applicants are required to submit a Public Participation Plan for meeting with interested citizens to advise of pending rezoning/use permit applications and to allow citizens the opportunity to discuss concerns and provide input about project design or development. An applicant's responsibilities are to inform the public, solicit input, and provide a summary of these activities in the form of a written report (Public Participation Report).

The requirement for a Public Participation Plan does not give communities decision making powers or force a consensus on issues. Applicants are not obligated to make any concessions or changes based upon input from citizens. A refusal by the community to meet with applicants does not mean that the applicants fail to meet the requirements of the Public Participation Plan.

Dialogue should occur between applicants and communities before the Planning Commission hearing, the first public hearing. Public Participation Plans are required with all rezoning and/or use permit applications and must be filed simultaneously with the application. Participation Plan Reports are required to be submitted no less than fifteen (15) calendar days before the scheduled Planning Commission hearing. If the report is not submitted as required, the Mayor and City Council may defer an application.

The minimum requirements for Public Participation Plans and Public Participation Reports are as follows:

A. *Public Participation Plan.* Every application for a rezoning or use permit which requires a public hearing shall include a Public Participation Plan which must be implemented prior to the first public hearing.

Minimum Standards:

1. Identification of all property owners within a quarter mile of the site.

2. Explanation of how interested parties will be informed of rezoning/use permit applications.

3. Methods for providing opportunities for discussion with interested parties before public hearings are held. Applicants are required to schedule at least one meeting at a convenient location and time and notify all interested parties, as identified in 1. above, of the purpose, place and time of the meeting. The Department shall provide a venue for one public meeting prior to the Public Participation Report submittal deadline and shall notify the applicant of the date, time, and location of this meeting at the time of submittal. The applicant or representative thereof shall attend this meeting and provide an opportunity for dialogue with interested parties. Written notice shall be provided by the applicant to all interested parties a minimum of 14 days before the meeting. The applicant may schedule additional meetings as deemed necessary to ensure that the citizens of the City of Johns Creek have adequate opportunity to participate in the land use petition process.

4. Applicant's schedule for completion of the Public Participation Plan.

B. *Public Participation Report.* Every rezoning and use permit applicant is required to

provide a Public Participation Report on the Department's form no later than 15 calendar days prior to the Planning Commission hearing. This report shall be made a part of the official file and a summary will be provided to the Planning Commission and the Mayor and City Council.

Minimum Standards:

1. Provide a list of all parties that were contacted, the methods of notification that were used, and a copy of the notification letter(s).

2. Provide dates and locations of all community and/or other meetings that were attended by the applicant to discuss an application. (attach meeting notices, letters, etc.)

3. Provide the number of people who participated in meetings held to discuss an application. (attach sign-in sheets)

4. A summary of concerns and issues expressed by interested parties.

5. A summary of the applicant's response to concerns and issues.

Sec. 28.5. Conditional Development.

28.5.1. *Designation.* Each zoning district shall have a designation thereunder to be known as Conditional for that district.

28.5.2. *Plans.* Site plans for rezonings and use permits must be folded, drawn to scale, no larger than 30" × 42", and shall, at a minimum, include the following information:

(1) Key and/or legend and site location map with North arrow;

(2) Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning;

(3) Acreage of subject property;

(4) Location of land lot lines and identification of land lots;

(5) Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property;

(6) Proposed streets on the subject site;

(7) Posted speed limits on all adjoining roads;

(8) Current zoning of the subject site and adjoining properties;

(9) Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property;

(10) Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on adjacent properties within 400 feet of the subject site based on the City's aerial photography or an acceptable substitute

as approved by the Director;

(11) Location of proposed buildings (except single-family residential lots) with total square footage;

(12) Layout and minimum lot size of proposed single-family residential lots;

(13) Topography (surveyed or City) on subject site and adjacent property within 200 feet as required to assess runoff effects;

(14) Location of overhead and underground electrical and pipeline transmission/conveyance lines;

(15) Required and/or proposed setbacks;

(16) 100 year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps;

(17) Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed;

(18) Required and proposed parking spaces; Loading and unloading facilities;

(19) Lakes, streams, and waters on the state and associated buffers;

(20) Proposed stormwater management facilities;

(21) Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access;

(22) Availability of water system and sanitary sewer system;

(23) Tree lines, woodlands and open fields on subject site;

(24) Entrance site distance profile assuming the driver's eye at a height of 3.5 feet (See the City of Johns Creek Development Regulations);

(25) Wetlands shown on the City's GIS maps or survey;

(26) Airport noise contours on those properties within the FAR Part 150 Airport Noise Contour Map; and

(27) Any other material required by the Department deemed necessary to review the application.

A request for relief from any of the above site plan requirements may be granted by the Community Development Department if they deem the items unnecessary to perform a review of the proposal. .

Sec. 28.6. Zoning Maps.

The official Zoning Map will be amended to reflect the land use petition approvals.

Sec. 28.7. Applicable Regulations.

Zoning regulations that applied at the time of acceptance of an application for a Land Disturbance Permit shall prevail.

Sec. 28.8. Petition Fees.

Prior to accepting a petition for rezoning, use permit, or concurrent variance, the Director shall collect nonrefundable fees as established by the Mayor and City Council.

Sec. 28.9. Procedures for Modification of Zoning Conditions.

Modification of conditions of rezoning requires rezoning pursuant to this Article.

ARTICLE XXIX.

VIOLATION AND PENALTY

Sec. 29.1. Violation.

Any person, firm, partnership or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor. Each day's continuance of a violation shall be considered a separate offense. The owner and or tenants of any buildings or premises or parts thereof, where anything in violation of the Ordinance shall be placed or shall exist, and any architect, builder, contractor, or agent or the owner and or tenants who may have assisted in the commission of any such violation shall be guilty of a separate offense.

Sec. 29.2 Penalty.

Where a determination is made that property is in violation of the Zoning Ordinance, and any other codes and laws enforced by the Department of Community Development, and all reasonable efforts and means to obtain compliance having been exhausted, the Director of the Department of Community Development is authorized to effect such compliance at public expense. The cost of effectuating compliance shall constitute a lien upon the property and said lien shall be recorded by the Director of the Department of Community Development in accordance with the laws for such.

The Municipal Court of the City of Johns Creek and the State Court of Fulton County shall each have jurisdiction to try offenses alleging violations by any person, firm, corporation, partnership, or other entity of this article. Upon conviction, any person, firm, corporation, partnership, or other entity shall be subject to a fine of $1,000.00 or imprisonment for not more than 60 days, or both this fine and imprisonment for each offense.

ARTICLE XXX. VALIDITY

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE XXXI. CONFLICTING ORDINANCES REPEALED

The provision of any Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

ARTICLE XXXII. EFFECTIVE DATE

This Ordinance having been adopted in the manner prescribed by law at the meeting of the Mayor and City Council January 2, 2007, effective January 5, 2007 becomes effective as of this date and as further amended January 26, 2007.

ARTICLE XXXIII. SIGNS [3]

Sec. 33.1. General Provisions.

Sec. 33.2. Purpose and Findings.

Sec. 33.3. Definitions.

Sec. 33.4. Powers and Duties of Personnel.

Sec. 33.5. Applicability.

Sec. 33.6. Permit Required.

Sec. 33.7. Fees Required.

Sec. 33.8. Application Content.

Sec. 33.9. Application Rejection.

Sec. 33.10. Permit Revocation.

Sec. 33.11. Zoning Ordinance Requirements.

Sec. 33.12. Variance.

Sec. 33.13. Suspension, Revocation.

Sec. 33.14. Expiration Date.

Sec. 33.15. City Occupation Tax Certificate, Public Liability Insurance Required.

Sec. 33.16. Identification Labels; Inspection; Notice.

Sec. 33.17. Signs Which Require No Permit.

Sec. 33.18. Prohibited Signs and Devices.

Sec. 33.19. Violations; Penalties.

Sec. 33.20. Nonconforming Signs.

Sec. 33.21. Removal of Unlawful or Dangerous Signs.

Sec. 33.22. Sign Location.

Sec. 33.23. Measurement of Sign Area.

Sec. 33.24. Measurement of Sign Height.

Sec. 33.25. Construction Standards.

Sec. 33.26. Restrictions Based on Location.

Sec. 33.27. Severability.

Sec. 33.1. General Provisions.

This Article shall hereafter be known and cited as the "City of Johns Creek Sign Ordinance."

Sec. 33.2. Purpose and Findings.

A. *Purpose.* This Article was enacted with the following purposes:

1. To protect the rights of individuals and businesses to convey their messages through signs;
2. To encourage the effective use of signs as a means of communication;

3. To promote economic development;
4. To improve traffic and pedestrian safety as it may be affected by distracting signs;
5. To prevent the destruction of the natural beauty and environment of the City;
6. To protect the public health, safety, and general welfare;
7. To restrict the continued existence of abandoned or non-conforming signs unless in compliance with the terms of this Article and to eliminate, over time, all non-conforming signs;
8. To ensure the fair and consistent enforcement of sign standards; and
9. To make it easier, quicker, and more economically efficient to apply for a sign permit.

B. *Findings.*

1. The City finds that 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. In the absence of regulation, however, the number of such signs tends to proliferate, with property owners' desiring ever increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted thoroughfares. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises.
2. The City further finds that the regulation of the size, height, number and spacing of signs is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the City, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of advertising for the benefit of all the City's citizens.
3. The City further finds that there is a substantial difference between signs erected by public authority and signs erected by private citizens or businesses. Signs erected by public authority are virtually all erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type signage as street signs which enable the traveling public to know where they are located and to find where they are going. As such, with the exception of signs identifying government buildings, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public. The City commission finds that public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, those signs are marked primarily for the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power.
4. The City further finds that some signage has a single targeted function and that identification of such signage by description is impossible without referring to its function. For instance, address numerals are used for the sole purpose of locating addresses, which is of benefit to persons looking for those addresses and is essential to public safety personnel responding to emergencies. Subdivision signs at the entrances to subdivisions favor a similar purpose in enabling both the traveling public and emergency personnel to quickly locate subdivision entrances for the purpose of either visitation or responding to emergency calls. While such signage is referenced based upon the function it serves within the context of this ordinance, the bulk of the provisions of this chapter are unrelated to the content of the speech provided and allow maximum expressive potential to sign owners.

Sec. 33.3. Definitions.

Words and phrases used in this Article shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined in the zoning ordinance of the City of Johns Creek, shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Article.

Abandoned sign. Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility.

Accessory Freestanding Signs. Freestanding signs subordinate to the primary freestanding sign on a lot.

Animated sign. Any sign, or part of a sign, that uses any movement or change of lighting or color to depict action or create a special effect or scene.

Audible sign. Any sign which emits a sound which is audible or emits a signal which can be converted into audible sounds, whether by radio or other means.

Awning/canopy sign. Any sign that is a part of, or attached to, an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Banner. A sign other than a flag with or without characters, letters, illustrations or ornamentation applied to cloth, paper, or fabric that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Billboard. A freestanding sign with an area of more than seventy-two (72) square feet but not more than six hundred seventy-two (672) square feet.

Changeable copy sign. Any sign that incorporates changing lettering or images to form a sign message or messages, whether such changes are accomplished electronically or manually. A sign panel is not considered changeable copy.

City Council. The City Council of the City of Johns Creek.

City. The City of Johns Creek.

Director. The Director of the Department of Community Development, or his or her designee for a particular purpose.

Directory sign. A single sign for multiple businesses, offices, professionals, industries, or other entities located within a planned center.

Drive-through/drive-in facility. A location where products and/or services are distributed to, or business is transacted with, a person seated in a motor vehicle.

Fall zone. An area equal to one hundred thirty-three percent (133%) of the height of the structure in every direction.

Feather Sign. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a single pole or staff for support and exceeding five (5) feet in height and designed to move in the wind.

Flag. Any fabric or bunting containing colors, patterns, or symbols used as a symbol of a government or other entity or organization.

Flashing sign. A sign, the illumination of which is not kept constant in intensity at all times when in use and which exhibits marked changes in lighting effects.

Freestanding sign. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure. A permanently affixed sign which is wholly independent of a building for support with a base of a width not less than the width of the sign face. The base of the sign face shall be flush with the supporting base, and the supporting base shall be flush with the ground and extend the full width of the sign. Except for subdivision entrance signs, freestanding signs may not be constructed before the principal building is on a lot.

Illuminated sign, External. A sign illuminated by an external light source. Such source cannot be a device that changes color, flashes or alternates.

Illuminated sign, Internal. A sign illuminated by an internal light source. Such source cannot be a device that changes color, flashes, or alternates.

Lot. A parcel of land that is of sufficient size to meet minimum zoning requirements for lot area, coverage, and use and that can provide such yards and other open spaces as required by the zoning standards.

Master Planned Development. A contiguous area or subdivision of land of at least 10 acres planned and maintained as a single entity under a set of master covenants in order to accommodate retail, service, commercial, office, industrial or residential uses or a combination of such uses (i.e. office park, industrial park, mixed-use development).

Marquee, marquee sign. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Moving sign. A sign which revolves, rotates, swings, undulates, or otherwise attracts attention through the structural movement of parts.

Multi-tenant. One or more buildings, located on a single premise, containing two (2) or more separate and distinct individual establishments, which occupy separate portions of the building and which are physically separated from each other by walls.

Obscene. Material is obscene if to the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion; the material taken as a whole lacks serious literary, artistic, political or scientific value; and the material depicts or describes, in a patently offensive way, sexual conduct specifically defined as: (A) acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated; (B) acts of masturbation; (C) acts involving excretory functions or lewd exhibition of the genitals; (D) acts of bestiality or the fondling of sex organs of animals; or (E) sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

Out of store marketing device. An out of store marketing device is any facility or equipment which is located outside of a primary building on a site zoned for non-residential uses, which is used for the primary purpose of providing a product or service without the owner's immediate presence, and which is manufactured to include a color, form, graphic, illumination, symbol, and/or writing thereon to communicate information regarding the product or service provided thereby to the public. Examples of out-of-store marketing devices include: fuel pumps, bank ATM units, vending machines, newspaper racks, drink machines, ice boxes, and phone booths.

Pennant, streamer. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Permanent sign. Any sign which, when installed, is intended for permanent use. A permanent freestanding sign shall be of a type and construction as not to be easily or readily removed from the lot on which it has been erected.

Permit. A sign permit reviewed, approved, and issued by the City Department of Community Development.

Permittee. The person and/or entity owning or leasing the land on which the sign is erected or for which an application has been submitted.

Person. A natural or legal person, including a firm, organization, partnership, trust, and corporation.

Place of Business. The physical location within a building at which a single business or entity legally operates pursuant to all Federal, State, City or other applicable laws and regulations. Any interconnectivity within a building from one location or tenant space to another shall constitute the same place of business. The use of a physical location, which is bounded on all sides by walls by more than one (1) legally operating business or entity shall only constitute a single place of business. In the event such a physical location is used or occupied by more than one (1) business, in order for such physical location to constitute a "place of business," all businesses and/or entities operating therein must be operating pursuant to all Federal, State, City or other applicable laws and regulations.

Portable sign. A sign which is not permanently affixed to the ground or to a structure, including but not limited to signs on trailers or signs mounted or painted on vehicles which are parked in such a manner as to serve the purpose of a sign.

Principal building. The building in which the principal use of the lot is conducted. Non-residential lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other structures with clearly accessory uses shall not be considered principal buildings.

Projecting sign. Any sign which is suspended or projected from the wall, eave, or soffit of the building.

Public sign. Any sign erected by a governmental entity.

Roof sign. Any sign erected and constructed wholly on and over the roof of a building, or supported by the roof structure.

Sidewalk or Sandwich Sign. 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 usually double-sided. Definition shall include a sign displayed on an easel.

Sign face. That part of a sign that is or can be used to announce, direct attention to, identify, advertise or otherwise communicate information.

Sign. Any device, fixture, placard, or structure affixed to, supported by, or suspended by a stationary object, to a building or to the ground that uses any color, graphic, illumination, symbol, or writing to announce, direct attention to, identify, advertise or communicate a message to the public. Signs do not include the flag or emblem of any nation, organization of nations, state, city or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields. Except where the address is also the name of the business, or institution owning or occupying the premises, displayed address information is not a sign or part of a sign for the purposes of this code.

Sign panel. A physically removable panel on a sign face of at least one (1) square foot that may be changed for different like-sized panels. Sign panels do not include electronic signs, reader boards or changeable copy.

Standard Informational sign. A non-illuminated temporary freestanding sign which shall contain no reflecting elements, flags, projections or unpainted wooden surfaces. Standard Informational Signs are limited to either one (1) sign that is 16 square feet in area or up to four (4) signs not to exceed an aggregate of sixteen (16) square feet in area. In addition, each sign shall not be greater than eight (8) feet above the grade level of the adjacent street to which the sign is located or four (4) feet above ground level, whichever is greater. These signs shall not be located within the public street right-of-way and shall be no closer than ten (10) feet to the back of curb of a private roadway. Standard Informational Signs do not require a permit.

Suspended sign. Any sign which is suspended from the eave or soffit of the building.

Temporary sign. Any sign that is not permanently mounted.

Wall sign. Any sign attached parallel to a wall, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one sign surface. No wall sign shall extend more than six (6) inches from any wall, building, or structure.

Window sign. Any sign that is placed inside a window, within two (2) feet of a window, or upon the window panes or glass, either inside or outside the building, and is visible from the exterior of the structure.

Sec. 33.4. Powers and Duties of Personnel.

The Director is hereby authorized and directed to administer and enforce this article, unless otherwise specifically provided by resolution of the City of Johns Creek City Council.

Sec. 33.5. Applicability.

The standards of this Article shall apply to all signs erected within the corporate limits of the City.

Sec. 33.6. Permit Required.

Except where specifically not required by the standards of this Article, it shall be unlawful for any person to post, display, materially change, or erect a sign in the City without first having obtained a sign permit. Notwithstanding the foregoing, signs which are not visible from a public right-of-way or from neighboring properties shall not be subject to the standards of this Article.

Sec. 33.7. Fees Required.

No permit shall be issued until the appropriate application has been filed with the Director and fees, as set from time to time by Resolution of the City Council, have been paid.

Sec. 33.8. Application Content.

Applications for sign permits required by this Article shall be filed along with two (2) additional copies by the person owning the subject Lot, or the owner's agent with express permission of the owner, in the office of the Director upon forms furnished by that office. The application shall describe and set forth the following:

1. The type and purpose of the sign as defined in this Article.
2. The value of the sign.
3. A survey to scale showing the street address of the property upon which the subject sign is to be located, the proposed location of subject sign on subject property, the distance of the proposed sign from the subject property's boundaries, and all existing structures or buildings on the subject property.
4. The square foot area per sign and the aggregate square foot area if there is more than one (1) sign face.
5. The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located.

6. Written consent of the owner of the property, or his/her agent, granting permission for the placement, maintenance, size, and height of the subject sign to be placed on the property.
7. For wall signs: Two sets of building elevations.
8. The name, address, telephone number, and business license number of the sign contractor. All applicants for signs which incorporate electricity must obtain an electrical permit.
9. Sign details, including a proposed color scheme of sign, and scaled elevation of the size and height of the proposed sign from ground level and adjacent street level.
10. The zoning district in which the subject property is located and a statement of compliance with all requirements of the zoning district regarding use of the property.

Sec. 33.9. Application Rejection.

A. *Incomplete; False.* The Director shall reject any application that is incomplete or inaccurate, that contains false material statements or omissions, or that is for a sign which would violate any standard within this Article within forty-five (45) business days of receipt of said application. The Director may reject at any time prior to the expiration of the 45-day period, if the application is incomplete, inaccurate or contains false material statements or omissions, by returning the application to the applicant.

B. *Processing Time; Denial.* The City shall process all complete and accurate sign permit applications within forty-five (45) business days of the Department of Community Development's actual receipt of a complete and accurate application and upon remittance of the appropriate sign permit fee. The Director shall give notice to the applicant of his/her decision by hand delivery or by mailing such notice by certified mail, return receipt requested, to the address on the permit application on or before the 45th business day. If the decision of the Director is to deny the application, the decision shall state the grounds upon which the denial is based. Failure of the City to act within the 45 business-day period shall be deemed an approval of the permit. If notice is mailed in conformity with this Section, notice shall be deemed to have been given upon the date of mailing. Any application meeting the standards of this Article will be granted. Any application not meeting the standards of this Article will be denied.

C. *Appealable.* A rejection pursuant to this Section shall be appealable pursuant to the procedures for Zoning Appeals outlined in the Johns Creek Zoning Ordinance. However, notwithstanding the foregoing, a final decision will be rendered within ninety (90) days from date an appeal is filed. If a final decision is not rendered within the 90-day period, the decision sought to be appealed shall be affirmed.

D. *Resubmission.* A rejected application later resubmitted in conformity with this Article shall be deemed to have been submitted on the date of resubmission, instead of the original submission date. An application which is resubmitted shall meet all the standards for an original application.

Sec. 33.10. Permit Revocation.

Should it be determined that a sign permit was issued pursuant to an application containing a false material statement or omission, the Director shall revoke said permit and the subject sign shall be immediately removed. A revocation pursuant to this Section shall be appealable pursuant to the procedures for Zoning Appeals outlined in the City's Zoning Ordinance. However, notwithstanding the foregoing, a final decision will be rendered within sixty (60) days from date an appeal is filed. If a final decision is not rendered within the 60-day period, the decision sought to be appealed shall be affirmed. The permit for any sign not meeting the standards of this Article will be revoked.

Sec. 33.11. Zoning Ordinance Requirements.

So long as an application conforms to the standards and procedures of this Article, the applicant is exempted from any additional setback requirements in the City's ordinance regulating zoning.

Sec. 33.12. Variance.

A. *Limitations.* The Board of Zoning Appeals shall be allowed to grant variances where a hardship has been demonstrated pursuant to Section 12.D of this Article only as to set back, building material, sign style, or height as further provided herein, provided that no variance shall be granted as to size of a sign which exceeds the maximum size within the subject property's zoning district. A variance to height may be granted not exceeding twenty (20) percent more of the maximum height allowed in the zoning district for the subject property.

B. *Timing.* The Board of Zoning Appeals shall hear and decide upon a variance within ninety (90) days of the submission of a complete and accurate application. If the subject of the sign appeal is currently constructed, it shall be concealed by a tarp or other means until the issue is decided by the Board of Zoning Appeals.

C. *Procedure.* Except as modified by this Article, the procedures for requesting a variance from the standards of this Article shall be the same procedures as that for seeking a variance from the City's ordinances regulating zoning.

D. *Standards.* A variance shall only be granted if one of the following conditions is met:

1. The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article; or
2. The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the Lot, impairs the visibility of the sign such that it cannot be seen.

Sec. 33.13. Suspension, Revocation.

A. *Violation.* Violation of any provision of this Article shall be grounds for terminating the permit granted by the City to the permittee or the person or entity erecting the sign. No permit shall be suspended, revoked or canceled except for due cause, as hereinafter defined, and until after the permittee is granted a public hearing before the City council.

B. *Hearing.* The permittee shall be given ten (10) business days written notice of the time, place, and purpose of the hearing, with a statement of the reason for the suspension, revocation, or canceling of such permit and/or license. "Due cause" is the violation of the standards of this Article. The termination of the permit does not in any way preclude the person or persons alleged to have violated the standards of this Article from being tried under Section 19(F) of this Article or preclude the City from taking any other action authorized by this Code and/or any action authorized by law.

Sec. 33.14. Expiration Date.

A sign permit shall become null and void if the sign for which the permit was issued has not been installed and completed within six (6) months after the date of issuance; provided, however, that where an applicant can demonstrate that a commercial entity was timely engaged to construct the permitted sign, but the fabrication has not yet been completed, one (1) 90-day extension may be granted by the Director. No refunds shall be made for a permit after the permit is issued. If later an individual desires to erect a sign at the same location, a new application for the sign must be processed and another fee paid in accordance with the fee schedule applicable at such time.

Sec. 33.15. City Occupation Tax Certificate, Public Liability Insurance Required.

It shall be unlawful for any person to engage in the business of erecting or maintaining signs within the City, unless and until such entity shall have obtained a City occupation tax certificate and a certificate of insurance from an insurance company authorized to do business in the state evidencing that the entity has in effect public liability and property damage insurance in the sum of twenty-five thousand dollars ($25,000.00) for property damage for any one (1) claim, and public liability insurance in an amount not less than one hundred thousand dollars ($100,000.00) for injuries, including accidental death to one (1) person. The certificate of insurance shall state that the insurance carrier shall notify the City thirty (30) days in advance of any termination and/or restriction of the coverage, including nonrenewal, cancellation, and nonpayment of any premium.

Sec. 33.16. Identification Labels; Inspection; Notice.

A. *Identification Labels.* With each sign permit, the Director shall issue a sticker bearing the same number as the permit with which it is issued. It shall be the duty of the permittee or his agent to affix such sticker to the sign in the lower right hand area so it is easily seen. The absence of a proper sticker shall be prima facie evidence that the sign has been, or is being, erected or operated in violation of the standards of this Article.

Sec. 33.17. Signs Which Require No Permit.

The following shall not count toward the total amount of signage allowed and no permit is required so long as all standards in this Article are met, including those set forth below:

1. Numerals displayed for the purpose of identifying property location not to exceed eight (8) inches in height;
2. Flags;
3. Window signs;
4. Door signs not to exceed one (1) square foot in size and not more than one (1) sign per door; and
5. Standard informational signs in all districts.
6. Banners during the months of May and June as identified in Sections 26A, 26B and 26C.
7. Sidewalk or sandwich signs located within ten (10) feet of a Place of Business's entrance.
8. Balloons, a maximum of two (2) cubic feet each and up to five (5) per lot, for a maximum of two weeks following a business's opening or while a business has an approved event permit.

Sec. 33.18. Prohibited Signs and Devices.

The following types of signs are prohibited in the City:

A. *Balloons, Pennants, Streamers.* Balloons, except as explicitly allowed herein, pennants, streamers, feather signs, or air or gas filled figures.

B. *String Lights.* Signs consisting in whole or in part of a series, line, or row of lights, whether supported or connected by cables or wires or other physical means, within one hundred fifty (150) feet of a street and visible therefrom. Notwithstanding the foregoing, white string lights shall be exempted from this Section and colored string lights and decorations displayed during the months of November, December and January shall be exempted from this Section. At no

time may string lights be used to outline building elements such as roofs, windows, archways or doors.

C. *Beacons, Search Lights, Laser.* Promotional beacons, search lights or laser lights or images.

D. *Audible Signs.* Audible signs.

E. *Signs in Right-of-Way.* Signs in a public right-of-way, other than those belonging to a government, public service agency, or railroad.

F. *Signs on Tree or Utility Pole.* Signs mounted or located on a tree, utility pole, or other similar structure.

G. *Roof Signs.* Roof signs and signs which extend vertically above any portion of a roof or parapet of the applicable wall.

H. *Portable Signs.* Portable signs (except sidewalk/sandwich signs), including signs attached to any parked vehicle or trailer, so as to be visible from a public right-of way, except as explicitly allowed in Article XVIII.

I. *Obscene Signs.* Signs which depict obscene material.

J. *Illegal Activity Signs.* Signs which advertise an activity which is illegal under federal, state or local laws.

K. *Signs Not Maintained.* Signs not in good repair, in violation of codes, or containing or exhibiting broken panels, visible rust, visible rot, damaged support structures, or missing letters.

L. *Abandoned Signs.* Abandoned signs.

M. *Animated; Flashing; Electronic.* Animated signs, flashing signs, electronic signs, and changeable copy signs (except as explicitly allowed herein).

N. *Imitation Traffic Signs.* Signs which contain or are an imitation of an official traffic sign or signal or contain the words "stop," "go," "slow," "caution," "warning," or similar words in such a manner as to resemble official traffic control signs.

Sec. 33.19. Violations; Penalties.

A. *Noncompliance.* No person shall erect on any premises owned or controlled by that person any sign which does not comply with the standards of this Article.

B. *Dangerous or Defective.* No person shall maintain or permit to be maintained on any premises owned or controlled by that person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the permittee of the sign, the owner of the premises, or as otherwise provided for in this Article.

C. *Separate Violation.* Each sign installed, created, erected or maintained in violation of this Article shall be considered a separate violation when applying the penalty portions herein.

D. *Public Nuisance.* Any violation of this Article is hereby declared to be a public nuisance.

E. *Notice.* The Director shall give the permittee ten (10) to thirty (30) days written notice, based on the practical considerations of completing measures to comport with the standards of this Article, to correct the deficiencies or to remove the sign(s) which is in violation of this Article. If the permittee refuses to correct the deficiencies or remove the sign, the Director will have the sign removed at the expense of the permittee.

F. *Citations.* If any sign or other device covered by this Article is, or is proposed to be, erected, constructed, altered, converted or used in violation of any provision of this Article, the Director shall issue a citation. Additionally, the City may seek an injunction for a continuing violation or take other

appropriate action to prevent such unlawful erection, construction, alteration, conversion or use to correct or abate such violation. Any violation of this Article shall be an offense, and the violator shall be subject to a fine of up to one thousand dollars ($1,000.00), imprisonment for up to six (6) months, or by both such fine and imprisonment.

Sec. 33.20. Nonconforming Signs.

A. *Maintained.* A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismountable material on nonconforming signs shall be permitted. All nonconforming signs shall be maintained in good repair.

B. *Repairs; Material Change.* Minor repairs and maintenance of nonconforming signs, the cumulative costs of which does not exceed fifty percent (50%) of the total value of the sign, shall be permitted; provided, however, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to bring the sign to a higher degree of conformity with the standards of this Article.

C. *Grandfathering.* Nonconforming signs may stay in place until one of the following conditions occurs:

1. The advertised business ceases at that location for a period of more than thirty (30) days;
2. The deterioration of the sign or damage to the sign makes it a hazard or renders it dilapidated, unsightly, or unkempt; or
3. The sign has been damaged to such extent that repairs or maintenance with cumulative costs exceeding fifty percent (50%) of the total value of the sign is required to restore the sign. No structural repairs or change in shape or size shall be permitted except to bring the sign to a higher degree of conformity with the standards of this Article.

D. To the extent any portion of this Article conflicts with O.C.G.A. § 32-6-83 or Ga. Const. Art. 3 § 6, ¶ 4(a) in application, this section shall be deemed to provide effected parties the minimum protections provided by O.C.G.A. § 32-6-83 or Ga. Const. Art. 3 § 6, ¶ 4(a), as amended from time to time. In no event is it the City's intent to obligate itself to pay any compensation related to the removal of any nonconforming sign.

Sec. 33.21. Removal of Unlawful or Dangerous Signs.

A. *Removal.* The City may order the removal of any sign in violation of this Article by written notice to the permit holder; or if there is no permit holder, then to the owner of the sign; or if the sign owner cannot be found or cannot be determined, then to the sign erector and any party that procured the erection of the sign. If a permit has been issued, such notice shall operate to revoke the permit.

B. *Procedure Following Removal Order.* If the sign is not removed within the time allowable pursuant to Section 16 the City shall remove or cause to be removed the sign and collect the costs thereof as provided below.

C. *Removal without Notice.* The City shall have removed any sign in violation of this Article, without giving notice to any party, if:

1. Said sign is upon the public right-of-way or upon other public property or upon the pavement of a private street or drive; or
2. Said sign poses an immediate safety threat to the life or health of any members of the public.

D. *Removal after Court Determination.* Other than signs located in a public right-of-way, a sign shall be removed by the City after a final determination by a court that the sign is unlawful and should be removed. If the permittee or owner fails to remove the sign the sign may be immediately removed and disposed of by the City.

Sec. 33.22. Sign Location.

A. *Obstructions to Doors, Windows, or Fire Escapes.* No sign shall be erected, relocated, or maintained so as to prevent free ingress or egress from any door, window, or fire escape.

B. *Signs Not to Constitute Traffic Hazard.* No sign or any part thereof, except authorized traffic signs, shall be located in any government right-of-way. No sign may be located any closer than twenty (20) feet to an intersection as measured from the intersection of the two (2) rights-of-way.

C. *Setback.* Unless otherwise noted in conditions of zoning or in this Article, all signs shall set back at least ten (10) feet from the right-of-way twenty (20) feet from the edge of pavement if a private street and no sign shall project over the right-of-way. Freestanding signs shall be a minimum of twenty-five (25) feet from an intersection as measured from the edge of pavement and shall be a minimum of 35 feet from any other freestanding signs. All signs shall provide an adequate visibility triangle as per Public Works Department standards. Upon demonstrating adequate sight distance, signs may be permitted in medians of private streets without providing a setback from internal streets.

Sec. 33.23. Measurement of Sign Area.

A. *Size Generally.* Except as otherwise provided herein, the area of a sign shall be computed as the area within the smallest continuous polygon comprised of not more than eight (8) straight lines enclosing the limits of a sign face, together with any sign face cabinet or frame or material, texture, or color forming an integral part of the sign face used to differentiate the sign face from the structure upon which it is placed. If polygons established around wall signs located on the same street oriented wall are within twenty-four (24) inches or less of one another, then the area of the sign shall be measured within one continuous polygon.

B. *Structure.* The computation of the area of a sign face shall not include the structure, supports, or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any message or idea and are purely structural or decorative in nature, other than those parts contained within the polygon that delimits the sign face.

C. *Multi-Faced Signs.* For multi-faced signs, when the sign face surfaces are parallel and are back to back, or where the interior angle formed by the faces is forty-five (45) degrees or less, the area of the sign shall be taken as the areas on the largest side. For all other multi-faced signs, the area of the sign shall be the total area on all sides that can be viewed at one time from any angle.

Sec. 33.24. Measurement of Sign Height.

The height of a sign shall be computed as the distance from the base of the sign structure at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is greater. Where the normal grade is below the normal grade of a public street, the sign base can be raised to the elevation of the normal grade of the street before the height limitations are applied (surveyor's certificate required).

Sec. 33.25. Construction Standards.

A. *Building and Safety Codes.* All signs permitted under this code shall be constructed and maintained in accordance with the applicable City building and safety codes. The City may remove after due notice any sign which shows neglect or becomes dilapidated.

B. *Faces.* The face of sign shall be flat, with protrusions of no more than two (2) inches to allow for the texture of the sign and words, letters, figures, symbols, logos, fixtures, colors, or other design elements. No sign or other advertising structure shall be constructed so as to have nails, tacks, or wires protruding therefrom. Lettering for address signage shall not exceed four (4) inches in height or as required by the applicable building code.

C. *Illumination.* Signs, when illumination is permitted and except as otherwise set forth, may be illuminated internally or externally. Free standing signs with external illumination shall have light directed downward. Externally illuminated signs shall not exceed fifty-five (55) foot-candles.

D. *Landscaping.* Landscaping, weeds, and grass shall be kept cut in front of, behind, underneath, and around the base of freestanding signs.

E. *Sign Materials.* Freestanding sign structure/base materials shall be constructed of brick or stone with a base of at least two feet. Any sign panels on a sign shall have a uniform background color and material. All freestanding signs shall display the property address in numbers at least six (6) inches in height but not more than twelve (12) inches in height. The numerical address shall not be considered part of the sign face and shall not count against the allowable sign square footage.

Sec. 33.26. Restrictions Based on Location.

If not otherwise stated, any sign not specifically allowed in a zoning district as provided under this Section shall be prohibited in that district, except as otherwise provided for under this Article. The following standards govern signs within specific zoning districts.

A. *Agricultural District.*

1. *Freestanding Signs.*

a. One (1) maximum thirty-two (32) square foot, freestanding sign per lot with a non-residential use shall be permitted for each street on which the lot has frontage. The sign may contain sign panels.

b. One (1) maximum thirty-two (32) square foot, freestanding sign or two (2) single-faced freestanding signs not to exceed sixteen (16) square feet for each side of a platted single-family subdivision entrance shall be permitted for each street on which the subdivision has an entrance.

c. Freestanding signs shall have a maximum height of six (6) feet, may be externally illuminated, and shall not have changeable copy.

2. *Window Signs.* Not more than three (3) window signs per lot of record shall be allowed and shall not be larger than four (4) square feet or cover more than twenty-five percent (25%) of the area of each window in which a sign is placed, whichever is less. Such signs shall not be illuminated.

3. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height, and shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first.

4. *Flag.* Each lot may display no more than two (2) flags and one (1) flag flagpole. The flagpole shall not exceed twenty (20) feet in height. Flag size shall not be more than twenty (20) square feet for a single flag and 40 square feet for the aggregate flag size.

5. *Banner.* Banners shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet or shall not extend more than five (5) feet above grade when on the ground. During the months of May and June, each lot may display one (1) banner not exceeding thirty-two (32) square feet, without receiving a permit. However, this 14-day period shall count toward the maximum four (4), 14-day periods allowed per year per lot. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

6. *Standard Informational Sign.* Each lot may display Standard Informational Signs as defined in this Article.

7. *Wall Sign.* Each lot with an institutional use shall be allowed two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet. Wall signs shall not have changeable copy. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached.

B. *Single-Family Residential, CUP and NUP Districts.*

1. *Freestanding Signs.*

   a. One (1) maximum thirty-two (32) square foot, freestanding sign per lot occupied with an institutional use shall be permitted for each street on which the lot has frontage. The sign may have sign panels.

   b. One (1) maximum thirty-two (32) square foot, freestanding sign or two (2) single-faced freestanding signs not to exceed sixteen (16) square feet for each side of a platted single-family subdivision entrance shall be permitted for each street on which the subdivision has an entrance. If developed with a mixture of detached and attached dwellings in separate pods or phases, an additional 16 square foot sign shall be permitted for the attached dwelling phase.

   c. Freestanding signs shall have a maximum height of six (6) feet, may be externally illuminated, and shall not have changeable copy.

   d. Freestanding signs may be attached to a subdivision entrance wall, provided the wall is no more than eight (8) feet in height, and so long as the top of the sign panel is no more than six (6) feet in height.

2. *Window Signs.* Not more than three (3) window signs per lot of record shall be allowed and shall not be larger than four (4) square feet or cover more than twenty-five percent (25%) of the area of each window in which a sign is placed, whichever is less. Such signs shall not be illuminated.

3. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height, and shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first.

4. *Flag.* Each lot may display no more than two (2) flags and one (1) flag flagpole. The flagpole shall not exceed twenty (20) feet in height. Flag size shall not be more than twenty (20) square feet for a single flag and 40 square feet for the aggregate flag size.

5. *Banner.* Banners shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet or shall not extend more than five (5) feet above grade when on the ground. During the months of May and June, each lot may display one (1) banner not exceeding thirty-two (32) square feet, without receiving a permit. However, this 14-day period shall count toward the maximum four (4) 14-day periods allowed per year per lot. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

6. *Standard Informational Sign.* Each lot may display Standard Informational Signs as defined in this Article.

7. *Wall Sign.* Each lot with an institutional use shall be allowed two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet. Wall signs shall not have changeable copy. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached.

8. Signage for commercial uses within single-family residential, CUP, and NUP districts shall use the same signage as that allowed for commercial and mixed-use districts (36.26.E).

C. *Apartment and Townhouse Residential Districts.*

1. One (1) maximum thirty-two (32) square foot freestanding sign shall be permitted for each street on which the multi-family lot has frontage. The sign shall have a maximum height of six (6) feet, may be externally illuminated, and shall not have changeable copy.

2. One (1) maximum thirty-two (32) square foot, freestanding sign per lot occupied with an institutional use shall be permitted for each street on which the lot has frontage. The sign may have sign panels.

3. *Window Signs.* Not more than three (3) window signs per unit (as defined in the City's Zoning Ordinance) shall be allowed and shall not be larger than four (4) square feet or cover more than twenty-five percent (25%) of the area of each window in which a sign is placed, whichever is less. Such signs shall not be illuminated.

4. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height, and shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first.

5. *Flag.* Each lot may display no more than two (2) flags and one (1) flag flagpole. The flagpole shall not exceed twenty (20) feet in height. Flag size shall not be more than twenty (20) square feet for a single flag and 40 square feet for the aggregate flag size.

6. *Banner.* Banners shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where

the building wall and roof meet or shall not extend more than five (5) feet above grade when on the ground. During the months of May and June, each lot may display one (1) banner not exceeding thirty-two (32) square feet, without receiving a permit. However, this 14-day period shall count toward the maximum four (4) 14-day periods allowed per year per lot. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

7. *Standard Informational Sign.* Each lot may display Standard Informational Signs as defined in this Article.

8. *Wall Sign.* Each lot with an institutional use shall be allowed two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet. Wall signs shall not have changeable copy. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached.

D. *O-I District.*

1. *Freestanding Signs.*

a. One (1) maximum thirty-two (32) square foot, freestanding sign per street frontage shall be permitted for each lot which contains less than fifteen (15) acres.

b. For lots that contain more than fifteen (15) acres, one (1) maximum sixty-four (64) square foot, freestanding sign for the primary frontage and one thirty-two (32) square foot, freestanding sign for each street on which the lot has secondary frontage. If the primary frontage of the lot is five hundred (500) linear feet or more and if the lot has two (2) or more entrances on the street on which it has primary frontage, the one maximum sixty-four (64) square foot sign may be substituted by two (2) single-faced freestanding signs not to exceed thirty-two (32) square feet. The sign shall have a maximum height of six (6) feet if thirty-two (32) square feet or less and eight (8) feet if sixty-four (64) square feet or less.

c. All freestanding signs may be internally or externally lighted. Each sign may have sign panels. If constructed as part of a brick or stone wall, at least thirty (30) feet in length, the sign face may double the allowable size, and sign panels may be measured separately rather than as part of a continuous polygon as required by Section 23 hereof. If the freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a separate Directory Sign. The freestanding sign size may be increased by thirty-two (32) square feet if the owner of the parcel opts to not construct a separate Directory Sign.

2. *Wall Signs.* Each Place of Business is allowed a maximum of two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet except that wall signs may exceed 5% of the wall area to conform to existing signage on the property if it is demonstrated that similarly situated signage on the property is larger in size. In order for a wall sign to exceed 5% of the wall area, it must be demonstrated that existing places of business on the property or within the shopping center are substantially similar or larger than that which is requested. Additionally, if demonstrated that distance from the right-of-way, site topography, building height or site features obscure wall signs, the size may be increased to 10% of the wall area. In no case may the sign exceed one hundred (100) square feet. Requests for a larger sign shall be subject to review and approval of the Community Development Director. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached. In lieu of a permanent sign, unoccupied tenant

suites are allowed one (1) wall sign, a maximum of eight (8) square feet in size. Said sign shall not be internally illuminated.

3. *Internal Signs.* Internal freestanding signs are permitted adjacent to internal entrance drive(s) serving the development. The freestanding sign shall not exceed twenty (20) square feet in area and six (6) feet in height and shall be set back at least fifty (50) feet from the exterior road right-of-way.

4. *Window Signs.* A maximum of twenty-five percent (25%) of the aggregate window area may contain signage. Within that twenty-five percent, a maximum of four square feet may be illuminated. Additionally, LED, string or similar lighting outlining the windows, doors or other similar building features shall be prohibited.

5. *Awning/canopy Signs.* Awning/canopy signs may be displayed. A permit is required. The signs shall be deducted from allocated wall sign area. The area of the sign shall not exceed ten percent (10%) of the area of the awning or canopy.

6. *Flags.* Each lot may display no more than three (3) flags and/or flagpoles. Flagpoles shall not exceed thirty (30) feet in height. Flag size shall not be more than 40 square feet.

7. *Standard Informational Signs.* Each lot may display Standard Informational Signs as defined in this Article.

8. Banners shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. In the case of lots which contain multiple Places of Business, each Place of Business shall be allowed a banner. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet and shall not extend more than five (5) feet above grade when on the ground. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

9. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height, and shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first.

10. *Directory Signs.* Each multi-tenant commercial, office park, or mixed use development shall be allowed an additional directory sign per road frontage in addition to the freestanding signs permitted. Directory signs shall not exceed six (6) feet in height, be more than thirty-two (32) square feet, and shall meet the architectural requirements of freestanding signs. If the primary freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a Directory Sign.

11. *Interior Project Directional Signs.* Each master planned development shall be allowed additional freestanding signs as follows:

    a. Maximum sign size is twenty-four (24) square feet.

    b. Maximum sign height is six (6) feet.

    c. Setback from the right-of-way is zero (0) feet.

    d. Two signs are allowed per internal intersection of private drives or public streets within the project and shall not be allowed on State Routes or arterial roads.

    e. Design style shall meet the requirements of a freestanding sign or shall conform to the MUTCD (Manual on Uniform Traffic Control Devices) Standards for design and a maximum height of six (6) feet. All developments proposing Interior Project Directional

Signs must submit a uniform design, to include all sign locations, architectural materials and sign elevations, for the entire development to the Director for review and approval. All signs shall have a uniform background color and material.

12. *Accessory Freestanding Signs.* Each lot shall be entitled up to four accessory freestanding signs. Said signs shall be a maximum of three feet high and four square feet in area and must be setback at least ten (10) feet from the right of way. Accessory Freestanding Signs shall not be internally illuminated. Accessory freestanding signs are not required to be monument-style.

E. *Commercial and Mixed Use Districts.*

1. *Freestanding Signs.*

a. One (1) maximum thirty-two (32) square foot per street frontage for each lot which contains less than fifteen (15) acres. The sign shall have a maximum height of six (6) feet.

b. For lots that contain more than fifteen (15) acres, one (1) maximum sixty-four (64) square foot, freestanding sign for the primary frontage and one thirty-two (32) square foot, freestanding sign for each street on which the lot has secondary frontage. If the primary frontage of the lot is five hundred (500) linear feet or more and if the lot has two (2) or more entrances on the street on which it has primary frontage, the one maximum sixty-four (64) square foot sign may be substituted by two (2) single-faced freestanding signs not to exceed thirty-two (32) square feet. The sign shall have a maximum height of six (6) feet if thirty-two (32) square feet or less and eight (8) feet if sixty-four (64) square feet or less.

c. All freestanding signs may be internally or externally lighted. Each sign may have sign panels. If constructed as part of a brick or stone wall, at least thirty (30) feet in length, the sign face may double the allowable size, and sign panels may be measured separately rather than as part of a continuous polygon as required by Section 23 hereof. If the freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a separate Directory Sign. The freestanding sign size may be increased by thirty-two (32) square feet if the owner of the parcel opts to not construct a separate Directory Sign.

2. *Wall Signs.* Each Place of Business is allowed a maximum of two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet except that wall signs may exceed 5% of the wall area to conform to existing signage on the property if it is demonstrated that similarly situated signage on the property is larger in size. In order for a wall sign to exceed 5% of the wall area, it must be demonstrated that existing places of business on the property or within the shopping center are substantially similar or larger than that which is requested. Additionally, if demonstrated that distance from the right-of-way, site topography, building height or site features obscure wall signs, the size may be increased to 10% of the wall area. In no case may the sign exceed one hundred (100) square feet. Requests for a larger sign shall be subject to review and approval of the Community Development Director. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached. In lieu of a permanent sign, unoccupied tenant suites are allowed one (1) wall sign, a maximum of eight (8) square feet in size. Said sign shall not be internally illuminated.

3. A tenant that has over fifty thousand (50,000) square feet of gross floor space and has independent leased space within a shopping center shall be allowed wall signs not to exceed five percent (5%) of the applicable wall area or three hundred (300) square feet, whichever is smaller

4. *Menu Sign.* One menu sign as part of a drive-thru or drive-in facility, not legible by the traveling public, shall not exceed six (6) feet in height.

5. *Banners* shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. In the case of lots which contain multiple Places of Business, each Place of Business shall be allowed a banner. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet and shall not extend more than five (5) feet above grade when on the ground. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

6. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height. The sign shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first. The sign shall not exceed the maximum freestanding sign allowed on the lot.

7. *Out of Store Marketing Device.* Out of store marketing devices shall be allowed, shall not exceed eight (8) feet in height, and shall not be illuminated except for illumination intrinsic to the device. No permit shall be required.

8. *Flags.* Each lot may display no more than three (3) flags and/or flagpoles. Flagpoles shall not exceed thirty (30) feet in height. Flag size shall not be more than 40 square feet.

9. *Entrance Signs.* In a multi-tenant commercial or office building, in addition to all other permitted signs, one (1) projecting non-illuminated sign per entrance used shall be allowed to identify the location of each tenant's premises. Projecting signs shall adhere to the following: does not exceed three (3) square feet in area; is uniform in size, material, color and shape and is placed in an equivalent location to other such signs located on the same building; is suspended from the eave or soffit of the building; and maintains a minimum of seven (7) feet clearance between the bottom of the sign and the walkway below.

10. A maximum of twenty-five percent (25%) of the aggregate window area may contain signage. Within that twenty-five percent, a maximum of four square feet may be illuminated. Additionally, LED, string or similar lighting outlining the windows, doors or other similar building features shall be prohibited.

11. *Awning/canopy Signs.* Awning/canopy Signs may be displayed. A permit is required. The signs shall be deducted from allocated wall sign area. The area of the sign shall not exceed ten percent (10%) of the area of the awning or canopy. The area of an Awning/canopy Sign shall be deducted from the allowable area of a Wall Sign.

12. *Standard Informational Signs.* Each lot may display Standard Informational Signs as defined in this Article.

13. *Directory Signs.* Each multi-tenant commercial, office park, or mixed use development shall be allowed an additional directory sign per road frontage in addition to the freestanding signs permitted. Directory signs shall not exceed six (6) feet in height, be more than thirty-two (32) square feet, and shall meet the architectural requirements of freestanding signs. If the primary freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a Directory Sign.

14. *Internal Signs.* One (1) internal freestanding sign per entrance drive is permitted adjacent to internal entrance drive(s) serving the development. The freestanding sign shall not exceed twenty (20) square feet in area and six (6) feet in height and shall be set back at least fifty (50) feet from the exterior road right-of-way.

15. *Interior Project Directional Signs.* Each master planned development shall be allowed additional freestanding signs as follows:

    a. Maximum sign size is twenty-four (24) square feet.

    b. Maximum sign height is six (6) feet.

    c. Setback from the right-of-way is zero (0) feet.

    d. Two signs are allowed per internal intersection of private drives or public streets within the project and shall not be allowed on state routes or arterial roads.

    e. Design style shall meet the requirements of a freestanding sign or shall conform to the MUTCD (Manual on Uniform Traffic Control Devices) Standards for design and a maximum height of six (6) feet. All developments proposing Interior Project Directional Signs must submit a uniform design, to include all sign locations, architectural materials and sign elevations for the entire development to the Director for review and approval. All signs shall have a uniform background color and material.

16. *Accessory Freestanding Signs.* Each lot shall be entitled up to four accessory freestanding signs. Said signs shall be a maximum of three feet high and four square feet in area and must be setback at least ten (10) feet from the right of way. Accessory Freestanding Signs shall not be internally illuminated. Accessory freestanding signs are not required to be monument-style.

F. *Industrial Districts.*

1. *Billboards.* Within industrial districts (M-1 and M-1A), billboards shall not exceed six hundred seventy-two (672) square feet and shall be located according to the following standards:

    a. Along, and oriented toward, State numbered primary routes or national highways only;

    b. At least five hundred (500) feet from all residential or AG-1 zoning districts;

    c. Minimum thirty-five (35) foot setback from right-of-way;

    d. Minimum of five hundred (500) feet from any other billboards or freestanding sign, except standard informational signs;

    e. The lot on which the billboard is located shall have sufficient area to accommodate the Fall Zone, and excepting the sign, no buildings, structures, or appurtenances shall be contained in the Fall Zone;

    f. Maximum of twenty (20) feet in height.

2. *Freestanding Signs.*

    a. One (1) maximum thirty-two (32) square foot, freestanding sign shall be permitted for each street on which the lot has up to and including five hundred (500) feet of frontage. The sign shall have a maximum height of eight (8) feet (see exception) and shall not have changeable copy.

    b. One (1) maximum sixty-four (64) square foot, freestanding sign shall be permitted for each street on which the lot has more than five hundred (500) linear square feet and up to one thousand (1,000) linear feet of frontage. The sign shall have a maximum height of eight (8) feet (see exception) and shall not have changeable copy.

    c. One (1) maximum seventy-two (72) square foot, freestanding sign shall be permitted for each street on which the lot has more than one thousand (1,000) linear feet of frontage (excludes spin sites and out-parcels). The sign shall have a maximum height of eight (8) feet (see exception) and shall not have changeable copy.

d. One (1) maximum thirty-two (32) square foot, freestanding sign per spin site or out-parcel which is identified on a site plan approved pursuant to a single zoning case.

e. Freestanding signs on arterial streets may be ten (10) feet in height.

f. All freestanding signs may be internally or externally lighted. Each sign may have sign panels. If constructed as part of a brick or stone wall, at least thirty (30) feet in length, the sign face may double the allowable size, and sign panels may be measured separately rather than as part of a continuous polygon as required by Section 23 hereof. If the freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a separate Directory Sign. The freestanding sign size may be increased by thirty-two (32) square feet if the owner of the parcel opts to not construct a separate Directory Sign.

3. *Wall Signs.* Each Place of Business is allowed a maximum of two wall signs. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred (100) square feet except that wall signs may exceed 5% of the wall area to conform to existing signage on the property if it is demonstrated that similarly situated signage on the property is larger in size. In order for a wall sign to exceed 5% of the wall area, it must be demonstrated that existing places of business on the property or within the shopping center are substantially similar or larger than that which is requested. Additionally, if demonstrated that distance from the right-of-way, site topography, building height or site features obscure wall signs, the size may be increased to 10% of the wall area. In no case may the sign exceed one hundred (100) square feet. Requests for a larger sign shall be subject to review and approval of the Community Development Director. Wall signs shall not have changeable copy. Notwithstanding the foregoing, an anchor tenant that has over fifty thousand (50,000) square feet of gross floor space within a shopping center shall be allowed wall signs not to exceed five percent (5%) of the applicable wall area or three hundred (300) square feet, whichever is smaller. Only one sign is allowed per wall. Wall signs shall not cover architectural features or details, and not extend beyond the roof line or outer edges of the building. Raceways shall be painted to match the color of the exterior walls to which they are attached. In lieu of a permanent sign, unoccupied tenant suites are allowed one (1) wall sign, a maximum of eight (8) square feet in size. Said sign shall not be internally illuminated.

4. *Menu Sign.* One menu sign as part of a drive-thru or drive-in facility, not legible by the traveling public, shall not exceed six (6) feet in height.

5. *Banners* shall be allowed for a period not exceeding fourteen (14) days with no more than four (4) such 14-day periods being permitted per calendar year per lot. An individual banner permit may be divided into two non-consecutive weeks provided the dates are stated on the permit. In the case of lots which contain multiple Places of Business, each Place of Business shall be allowed a banner. Banners shall not be more than thirty-two (32) square feet. No banner shall be mounted so as to extend above the horizontal plane of the roof where the building wall and roof meet and shall not extend more than five (5) feet above grade when on the ground. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.

6. *Signs during Construction.* One (1) additional sign shall be allowed during construction. The sign shall not be internally illuminated, shall not exceed sixteen (16) square feet in area and eight (8) feet in height. The sign shall be allowed beginning with the commencement of construction and ending with the issuance of a Certificate of Occupancy or installation of a permanent sign, whichever occurs first. The sign shall not exceed the maximum freestanding sign allowed on the Lot.

7. *Out of Store Marketing Device.* Out of store marketing devices shall be allowed, shall not exceed eight (8) feet in height, and shall not be illuminated except for illumination intrinsic to the device. No permit shall be required.

8. *Flags.* Each lot may display no more than three (3) flags and/or flagpoles. Flagpoles shall not exceed thirty (30) feet in height. Flag size shall not be more than 40 square feet.

9. *Projecting signs.* In a multi-tenant commercial or office building, in addition to all other permitted signs, one (1) projecting non-illuminated sign per entrance used shall be allowed to identify the location of each tenant's premises. Projecting signs shall adhere to the following: does not exceed three (3) square feet in area; is uniform in size, material, color, and shape and is placed in an equivalent location to other such signs located on the same building; is suspended from the eave or soffit of the building; and maintains a minimum of seven (7) feet clearance between the bottom of the sign and the walkway below.

10. *Window Signs.* A maximum of twenty-five percent (25%) of the aggregate window area may contain signage. Within that twenty-five percent, a maximum of four square feet may be illuminated. Additionally, LED, string or similar lighting outlining the windows, doors or other similar building features shall be prohibited.

11. *Awning/canopy Signs.* Awning/canopy signs may be displayed. A permit is required. The signs shall be deducted from allocated wall sign area. The area of the sign shall not exceed ten percent (10%) of the area of the awning or canopy. The area of an Awning/canopy Sign shall be deducted from the allowable area of a Wall Sign.

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13. *Directory Signs.* Each multi-tenant commercial, office park, or mixed use development shall be allowed an additional directory sign per road frontage in addition to the freestanding signs permitted. Directory signs shall not exceed six (6) feet in height, be more than thirty-two (32) square feet, and shall meet the architectural requirements of freestanding signs. If the primary freestanding sign is constructed on a wall with the increased sign size allowance, the parcel shall not be permitted to construct a Directory Sign.

14. *Internal Signs.* One (1) internal freestanding sign per entrance drive is permitted adjacent to internal entrance drive(s) serving the development. The freestanding sign shall not exceed twenty (20) square feet in area and six (6) feet in height and shall be set back at least fifty (50) feet from the exterior road right-of-way.

15. *Interior Project Directional Signs.* Each master planned development shall be allowed additional freestanding signs as follows:

    a. Maximum sign size is twenty-four (24) square feet.

    b. Maximum sign height is six (6) feet.

    c. Setback from the right-of-way is zero (0) feet.

    d. Two signs are allowed per internal intersection of private drives or public streets within the project and shall not be allowed on state routes or arterial roads.

    e. Design style shall meet the requirements of a freestanding sign or shall conform to the MUTCD (Manual on Uniform Traffic Control Devices) Standards for design and a maximum height of six (6) feet. All developments proposing Interior Project Directional Signs must submit a uniform design, to include all sign locations, architectural materials and sign elevations for the entire development to the Director for review and approval. All signs shall have a uniform background color and material.

16. *Accessory Freestanding Signs.* Each lot shall be entitled up to four accessory freestanding signs. Said signs shall be a maximum of three feet high and four square feet in area and

must be setback at least ten (10) feet from the right of way. Accessory Freestanding Signs shall not be internally illuminated. Accessory freestanding signs are not required to be monument-style.

Sec. 33.27. Severability.

Should any article, section, clause, or provision of this Article be declared by a court of competent jurisdiction to be invalid, such action shall not affect the validity of the ordinance as a whole or any part hereof other than the part so declared to be invalid, it being the intent of the City Council of the City that each article, section, clause, and provision hereof be severable.

FOOTNOTE(S):

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Editor's note— Ord. No. 2014-06-23, adopted June 16, 2014, repealed the former article XXXIII, §§ 33.1—33.27, and enacted a new article XXXIII as set out herein. The former article XXXIII pertained to similar subject matter. See Code Comparative Table for complete derivation. (Back)