

ARTICLE IV (Amended 6/29/2009)

GENERAL PROVISIONS

- 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. A courtesy copy of the authorization memo shall be sent to the Directors of the Departments of Public Works, Inspections and Zoning Enforcement, and the Community Development Department.
- 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 Subdivision 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, flag poles, 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. **Limitations on the Location of Outside Storage and Accessory Displays.** Outside storage and accessory displays are permitted as indicated below for the various use districts.

1 **Outside Storage Associated with Residential Uses or Districts Including AG-1 Used for Residential Purposes Only.** Such storage is permitted in side and rear yards only, and must be screened from adjoining residential uses and

from streets with an opaque fence or a vegetative screen which complies with Appendix G of the Tree Preservation Ordinance. Any storage not normally associated with residential use shall be prohibited.

- 2 **Outside Storage Associated with Industrial Uses or Districts.** Outside storage is permitted in rear and side yards only in the M1-A District. Outside storage shall be located at least 25 feet from any residential property line. Such storage must be screened, in accordance with Appendix G of the Tree Preservation Ordinance, from neighboring residential uses in all industrial districts and from streets in the M-1A and M-1 Districts.
- 3 **Outside Storage Associated with Institutional, Office and/or Commercial Uses or Districts.** Outside storage is permitted only within rear yards, and shall be located at least 25 feet from any residential property line. Such storage must be screened from neighboring residential uses and streets with an opaque fence or a vegetative screen which complies with Appendix G of the Tree Preservation Ordinance.
- 4 **Outside Accessory Display Associated with Commercial and/or Industrial Uses or Districts.** Accessory displays for merchandise which is being offered for sale on-premise shall be permitted in the commercial and industrial districts only. Such displays may be located in any yard as long as it is not located in a minimum yard. Vehicle and similar displays may be located in minimum front yards, but may not encroach upon minimum landscape areas.

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 County 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.

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

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-adjointing 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 or the right-of-way based on the street's functional classification, whichever is farther from the street's centerline. 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, decks or patios 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.

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 unincorporated 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 be discouraged on sites with 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.

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, and pedestrian plazas 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 of 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 County may require the installation of a four-foot high earthen berm with plantings per the County Buffer Standards. The County 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 façade 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 lay out 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 façade 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 as specified by the appropriate overlay district.
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 surrounding. High intensity colors shall be avoided.

Q. Roof:

1. Permissible roof 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, metal awnings 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.

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. **ANTENNAS.** This provision shall apply to all antennas and towers except those that exceed the maximum height of the district in which they are located (19.3.1 and 19.4.3). Antennas and towers 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 antenna is located except that principal structure height requirements shall control. 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 antenna shall be designed such that the entire structure will remain on the property or within a fall easement if it should fall.

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.

4.7. **OPEN**

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.

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.

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

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 Footcandles
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 footcandles 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 façade 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.

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.

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 Subdivision Regulations administered by the Director of the Community Development Department.
- B. Gates. No part of a 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 Subdivision 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. 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 can not be seen through. The following standards shall apply to fences and walls.
 - 1. Adjoining Right-of-Way. In all zoning districts except AG-1, M-1 and M-1A, 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.
 - 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.
- 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.

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 or similar operations, 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.

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.

4.14. **OPEN.**

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)	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. New residential development proposed within 5 miles of the Hartsfield-Jackson International Airport boundary shall be in compliance with the City of Johns Creek Site Acceptability Noise Standards.
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.

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 online in the Fulton County 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.

4.17.– 4.22. **OPEN.**

4.23. **TREE PRESERVATION ORDINANCE AND ADMINISTRATIVE GUIDELINES.**

Standards for tree preservation are as set forth by the City of Johns Creek Tree Preservation Ordinance and Administrative Guidelines, adopted by the City of Johns Creek on December 19, 2006.

4.23.1. **MINIMUM LANDSCAPE STRIPS AND BUFFERS.**

- A. Landscape strips shall be provided along all lot lines, as specified in Table 4.23.1, except when zoning buffers are required.
- B. Zoning buffers shall be provided along all lot lines, as specified in Table 4.23.1, adjacent to properties zoned AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4,

R-4A, R-5, R-5A, R-6, TR, A, A-L, NUP, CUP, and MIX with residential components, and adjacent to all single family residential uses in all zoning districts. (See Illustration 4.23.1)

- C. TR, A and A-L zoned districts shall provide landscape areas adjacent to TR, A, and A-L zoned districts, as specified in Table 4.23.1, unless adjacent properties are developed with single family residential uses. If adjacent properties are developed with single family residential uses, zoning buffers are required as specified in Table 4.23.1. (See Illustration 4.23.1)
- D. Zoning buffers shall be undisturbed except for approved access and utility crossings and replantings as required by the City of Johns Creek Arborist.
- E. 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.
- F. 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.

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

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								
LANDSCAPE AREAS (feet)					BUFFERS (feet)			IMPROVEMENT SETBACKS (feet)
DISTRICT	FRONT	SIDE CORNER	REAR	INTERIOR	SIDE	REAR	ALL ROAD FRONTAGES	

AG-1*	***	20	10	10	25	50		10
R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, R-6, NUP, CUP*	***	20	10	10	25	50		10
TR	***	30	10	10	25	40		10
A	***	40	10	10	25	50		10
A-L	***	20	10	10	25	50		10
MHP	Landscaping Plan Required for Entire Development				50	50	100	10
MIX	***	10	10	5/10**	25	50		10
O-I	***	10	10	10	25	50		10
C-1	***	10	5/10**	5/10**	25	50		10

Table 4.23.1								
LANDSCAPE AREAS (feet)					BUFFERS (feet)			IMPROVEMENT SETBACKS (feet)
DISTRICT	FRONT	SIDE CORNER	REAR	INTERIOR	SIDE	REAR	ALL ROAD FRONTAGES	
C-2	***	10	5/10**	5/10**	35	75		10
M-1A	***	10	0/5**	0/5**	50	100		10
M-1	***	10	0/5**	0/5**	50	100		10

*Nonresidential uses only.

**The second number applies when a lot line adjoins a less intense non-residential (except AG-1) district.

*** Front landscape areas are per requirements found in Community Standards, depending on road frontage.

4.23.2. **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 J. 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.

4.23.3. **OPEN**

4.23.4. **OPEN**

4.24. **RESERVED**

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. (Amended 11/03/93)

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-subsidary 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-subsidary 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 tract(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.

4.27 – 4.29 **OPEN.**

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, unincorporated City of Johns Creek is divided into zoning districts which are individually described in this Ordinance. Those districts are set forth below from lowest to highest intensity. Within the listing are individual zoning districts which are no longer active but which continue to apply to properties zoned in those classifications. Those Zoning districts as of the date of adoption of this ordinance of amendment are:

R-1 Single Family Dwelling District
 R-2 Single Family Dwelling District AG-1 Agricultural 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. The Community Development Department shall provide all City departments with copies of amendments within 15 days of approval by the Mayor and City Council, and shall implement a subscription and update service for the public.
- 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.