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MAYOR VETO August 14, 2023

COUNCIL OVERRIDE August 15, 2023

**AN ORDINANCE NO. BR2023-20**

**AN ORDINANCE TO AMEND CHAPTER 135 (“SUBDIVISION REGULATIONS”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA WITH RESPECT TO THE ADMINISTRATION, REVIEW, AND APPROVAL OF PROPOSED SUBDIVISIONS IN THE CITY; TO AMEND CHAPTER 140 (“ZONING”), ARTICLE I (“IN GENERAL”), ARTICLE VI (“R-3 HIGH-DENSITY RESIDENTIAL DISTRICT REGULATIONS”), ARTICLE XII (“PERMISSIBLE AND CONDITIONAL USES”), ARTICLE XIII (“SCREENING AND BUFFER REQUIREMENT”), ARTICLE XIV (“PLANNED UNIT DEVELOPMENT REGULATIONS”), ARTICLE XVII (“STREET, TRAFFIC, AND PARKING REGULATIONS”), ARTICLE XIX (“NONCONFORMING USES”), AND ARTICLE XXI (“REMEDIES AND PENALTIES”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA WITH RESPECT TO THE DIVISION OF THE CITY INTO CERTAIN ZONING CATEGORIES, THE PERMISSIBLE AND CONDITIONAL USES WITHIN EACH ZONING CATEGORY, THE DEVELOPMENT STANDARDS WITHIN EACH CATEGORY, SCREENING AND BUFFER REQUIREMENTS, STREET, TRAFFIC, AND PARKING REGULATIONS, NONCONFORMING USES, AND RELATED REMEDIES AND PENALTIES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Chapter 135 (“Subdivision Regulations”) of the Code of the City of Blue Ridge, Georgia (“Code”) provides generally for the administration, review, and approval of subdivisions within the City; and

**WHEREAS**, Chapter 140 (“Zoning”) of the Code provides for the division of the City into certain zoning categories, provides for permissible and conditional uses within each zoning category, provides for development standards within each category, and provides for screening and buffer requirements, street, traffic, and parking regulations, nonconforming uses, and related remedies and penalties; and





EXHIBIT "A"

## Chapter 135 SUBDIVISION REGULATIONS

### ARTICLE I. IN GENERAL

#### Sec. 135-1. Short title.

All regulations contained in this chapter shall hereafter be known, cited and referred to as the subdivision regulations of the City of Blue Ridge, Georgia.

(Ord. of 10-12-2007, § 1.1)

#### Sec. 135-2. Authority and purpose.

- (a) *Authority.* The ordinance from which this chapter is derived is adopted pursuant to the authority delegated to the city under article IX, section II of the Georgia Constitution, as amended, the Georgia Coordinated Planning Act of 1989, as amended, home rule powers, and state administrative rules for the adoption and implementation of comprehensive plans.
- (b) *Purpose.* The ordinance from which this chapter is derived is enacted for the following purposes:
- (1) To encourage economically sound and stable land development and to further the orderly development of land;
  - (2) To ensure the provision of required streets, utilities, and other facilities and services to land developments;
  - (3) To ensure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian in land developments;
  - (4) To ensure the provision of needed public open space and building sites in land developments through the dedication or reservation of land for recreational, educational and other public purposes;
  - (5) To prevent the pollution of air, land, streams, and ponds; to insure the adequacy of drainage facilities; to safe guard the water table, as well as encourage the wise use and management of natural resources throughout the city; and to preserve the topography and beauty of the community and the value of land; and
  - ~~(6) To assist the general public, who generally lacks the specialized knowledge needed to evaluate subdivision improvements and design; and~~
  - ~~(7) To promote the goals, objectives, policies, and the future land use map of the adopted comprehensive plan, entitled "2025 Joint Comprehensive Plan for the County and the Cities of Blue Ridge, McCaysville, and Morganton," as amended from time to time.~~

(Ord. of 10-12-2007, § 1.2)

#### Sec. 135-3. Jurisdiction.

- (a) The provisions in this chapter shall be applicable in the incorporated areas of the city.

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- (b) When necessary to further its purposes, this chapter may be amended by the ~~mayor and council~~ city council. Amendment of this chapter shall follow the same procedure as followed by the city in amending or adopting other city ordinances.

(Ord. of 10-12-2007, § 1.3)

#### **Sec. 135-4. Use of plat.**

After the adoption of the ordinance from which this chapter is derived, the transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a plat of a subdivision that has not been given final approval by the ~~planning officer~~ zoning administrator and recorded in the office of the clerk of the superior court of the county is prohibited; and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from such penalties. Valid preexisting lots, described by deed or plat, or both, and being lots of record, and created prior to the adoption of the ordinance from which this chapter is derived, shall not be affected by this chapter unless said lot is modified or further subdivided.

(Ord. of 10-12-2007, § 1.4)

#### **Sec. 135-5. Planning authority.**

~~By authority of the mayor and council, the mayor and council does hereby delegate administrative power to the municipal planning commission to exercise the administrative power and authority to review, approve, and disapprove preliminary plats for major subdivisions of land, and to grant variances from the requirements of this chapter, but subject to a right of appeal by the property owner and/or subdivider from these decisions to the city council in accordance with article VI of this chapter. The~~ planning officer ~~zoning administrator~~ shall exercise the power and authority to review and approve final plats for both major and minor subdivisions as set forth in this chapter, but again subject to a right of appeal by the property owner and/or applicant from this decision to the city council pursuant to the appeal procedure contained in article VI of this chapter.

(Ord. of 10-12-2007, § 1.5; Ord. of 10-12-2007(2), § 1)

#### **Sec. 135-6. Fees.**

Permit, application, and/or fees shall be adopted by resolution in a public meeting of the city council, from time to time by the mayor and council.

(Ord. of 10-12-2007, § 1.6)

#### **Sec. 135-7. Enforcement and penalties.**

- (a) The ~~planning officer~~ zoning administrator shall be the general administrative and enforcement officer of this chapter. Pursuant to section 5.13(c) of the city Charter, any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by fine not to exceed \$500.00, or by imprisonment in the county jail for not more than 90 days, or both.
- (b) Each day's continuance of a violation shall be considered a separate offense. The owner of any land or parts thereof, where anything in violation of this chapter shall be placed, or shall exist, and any person who may have assisted the commission of any such violation, shall be guilty of a separate offense. The municipal court shall have jurisdiction on any offense charged under this subsection.

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- (c) In any case in which any land is, or is proposed to be, used in violation of this chapter or any amendment thereto adopted by the mayor and council, the mayor and council or any owner of adjacent real estate may, in addition to other remedies provided by law, institute injunction, abatement or any appropriate action (e.g., withholding of utilities by the city or any other utility provider upon notice of violation of the chapter given by the city), or proceeding to prevent, to enjoin or abate such unlawful use.

(Ord. of 10-12-2007, § 1.7)

**Sec. 135-8. Interpretation, conflict and severability.**

- (a) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
- (b) Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- (c) If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or void, the validity of the remaining portions of these regulations shall not be affected thereby. The intent of the mayor and council in adopting the ordinance from which this chapter is derived is that no portion hereof or provision of the regulations contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase of provisions of this chapter.

(Ord. of 10-12-2007, § 1.8)

**Sec. 135-9. Interpretation and rules of construction.**

For the purpose of this chapter and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the term "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; the term "may" is permissive. The term "used" or "occupied" as applied to any land or building shall be construed to include the terms "intended, arranged, or designed to be used or occupied." Words, terms and phrases not specifically defined herein, shall have their common meaning (in the context in which they are used) in accordance with the most recent edition of Webster's English Dictionary.

(Ord. of 10-12-2007, § 2.1)

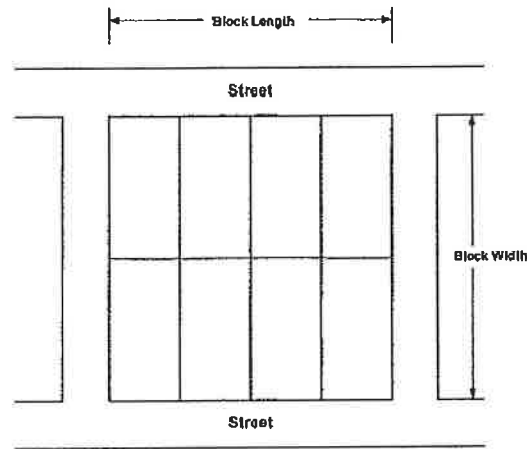
**Sec. 135-10. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Access* means the right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

*Block* means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary of the subdivision, or a combination of the above with a river or lake. See Figure 135-10-1.

Figure 135-10-1



**Block, Block Length, and Block Width**

*Bond* means a legal instrument with a clause which establishes a sum of money fixed as a penalty, binding the parties to pay the same; conditioned, however, that the payment of penalty may be avoided by the performance of certain acts.

*Building* means any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

*Common elements* means any portion of a development, which is held in common by owners of the development.

*Comprehensive plan* means any plan adopted by the ~~mayor and~~ city council, or portion of such plan. The term "comprehensive plan" shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document, or written recommendation pertaining to subjects normally within the subject matter of a comprehensive plan (if formally adopted by the local governing body) as provided by the Georgia Coordinated Planning Act of 1989.

*Conservation areas, primary*, mean property qualifying as a conservation use property is located outside of building envelopes and lots established for building purposes and includes:

- (1) Steep mountain slopes containing at least 5,000 square feet of contiguous area with 45 percent slope or greater;
- (2) Land within the 100-year floodplain;
- (3) Wetlands;
- (4) Water bodies larger than 5,000 square feet;
- (5) Riparian zones at least 75 feet wide along both sides of all perennial and intermittent streams; and
- (6) Populations of endangered or threatened species or habitat for such species.

*Conservation areas, secondary*, mean prime farmland, natural meadows, mature woodlands, farm fields, localized aquifer recharge areas, and land containing scenic views and sites, critical wildlife habitat, and sites of historic, cultural, or archaeological significance, located outside of building envelopes and lots established for building purposes.



*Conservation design subdivision* means a subdivision where open space is the central organizing element of the subdivision design, with all primary and all or some of the secondary conservation areas within the boundaries of the subdivision identified and permanently protected.

*Conservation easement* means a legally enforceable agreement between a property owner and the holder of the easement, in a form acceptable to the city attorney, and recorded in the office of the clerk of superior court of the county. A conservation easement restricts the existing and future use of the defined tract or lot to conservation use, agriculture, passive recreation, or other use approved by the mayor and council and prohibits further subdivision or development. Such agreement also provides for the maintenance of open spaces and any improvements on the tract or lot. Such agreement cannot be altered except with the expressed written permission of the easement holder and any other co-signers. A conservation easement may also establish other provisions and contain standards that safeguard the tracts or lot's special resources from negative changes.

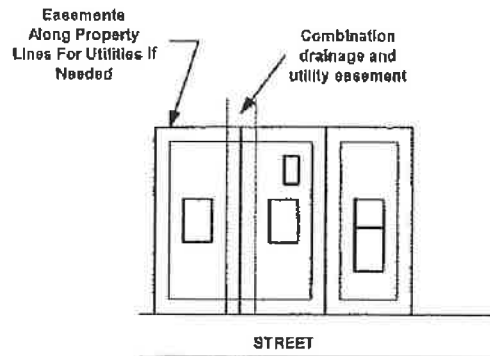
*Crosswalk* means a right-of-way within a block dedicated to public use, intended primarily for pedestrian use, and designed to provide access to adjacent roads and lots.

*Cut* means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.

*Design standards* mean the design specifications for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum, or maximum dimensions of such items as right-of-way, blocks, easements, and lots.

*Easement* means a grant by a property owner for the use of a strip of land by an individual, company or agency for a specified purpose. See Figure 135-10-2.

Figure 135-10-2



Easements

*Erosion and sedimentation control plan* means a plan for the control of soil erosion and sedimentation resulting from a land disturbing activity. Such a plan is completed pursuant to the city's soil erosion and sedimentation control ordinance set forth in chapter 120.

*Escrow* means a legal agreement between the developer and the city or the appropriate agency or utility in lieu of actual performance and intended to ensure performance.

*Filling* means the placement of any soil or other solid material either organic or inorganic on a natural ground surface or an excavation.

*Finished grade* means the final grade or elevation of the ground surface forming the proposed design.

*Flood* means an overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

*Grading* means altering surfaces to specified elevations, dimensions, and/or slopes; this includes stripping, cutting, filling, and stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

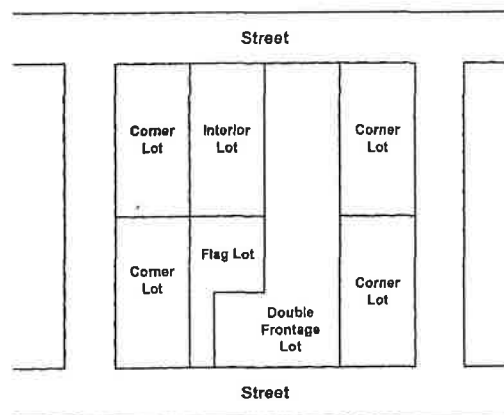
*Health inspector* means the legally designated county health sanitarian of the county health department, or his authorized representative.

*Homeowner's association* means an organization formed for the maintenance and operation of the common areas of a development, where membership in the association is automatic with the purchase of a dwelling unit or lot within the development, with the ability to legally assess each owner of a dwelling unit or lot and which has authority to place a lien against all dwelling units and lots within the development.

*Individual sewage disposal system* means a septic tank, seepage tile sewage disposal system, or any other sewage treatment device, other than a public treatment system, approved by the county public health department.

*Issuing authority* means the governing authority of the city which has been certified by the director or the environmental protection division of the department of natural resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended.

Figure 135-10-3



TYPES OF LOTS

*Land disturbing activity* means any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land. (Notice: Call before you dig. Georgia Underground Protection Center (GA 1-Call).)

*Lot* means a developed or undeveloped tract of land in one ownership legally transferable as a single unit of land.

*Lot area* means the total surface area of land included within lot lines.

*Lot, corner*, means a lot or parcel of land abutting upon two or more streets at their intersection.

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*Lot depth* means the mean horizontal distance between the front and rear lot lines measured within the lot boundaries. On corner lots, lot depth is measured from the street frontage with the shortest dimension.

*Lot, double frontage*, means a lot other than a corner lot abutting two streets.

*Lot, frontage*, means that dimension of a lot or portion of a lot abutting on a street.

*Lot, interior*, means a lot other than a corner lot.

*Lot lines* means the boundary dividing a given lot from the street, an alley, or adjacent lots.

*Lot of record* means a lot which is part of a subdivision recorded in the county superior court clerk's office, or a lot described by metes and bounds, the description of which has been recorded in the county superior court clerk's office prior to the date of passage of the ordinance from which this chapter is derived.

*Lot, through*, means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

*Lot width* means the distance between the side lot lines measured at right angles to the lot depth at the established front building line.

*Lot width, curvilinear frontage*. For a lot having the majority of its frontage on a circular turnaround or curved street, the lot width shall be the distance between the side lines of the lot, measured as if tangent at the midpoint of the arc of the front property line and parallel to the chord of the arc, where the minimum required distance is obtained. The lot width line is synonymous with the front building line in this example.

*Natural ground surface* means the ground surface in its original state before any grading, excavation or filling takes place.

*Owner of record* means the owner of property as specified on the deed of the lot of record.

*Percentage of grade, on the street centerline*, means the distance vertically (up and down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

~~*Planning commission* means the Blue Ridge Municipal Planning Commission.~~

~~*Zoning Administrator*~~ *Planning officer* means the city administrator or an appointee of the mayor and council responsible for executing the administrative tasks identified in this chapter, and for the functions herein enumerated.

*Plat*.

- (1) *Preliminary*. A detailed drawing or map of a proposed subdivision submitted to the ~~planning commission~~ zoning administrator for review (and subject to the right of appeal contained within article VI of this chapter) in order to determine that said preliminary plat meets the requirements herein enumerated and showing the proposed layout in sufficient detail, although not completely computed, to indicate unquestionably its workability.
- (2) *Variance*. A minimal relaxation or modification of the strict terms of this chapter granted by the city council ~~planning commission (and decisions regarding a request for a variance by the planning commission is subject to a right of appeal by the property owner and/or the subdivider to the city council in accordance with article VI of this chapter)~~ where such modification will not be contrary to the public interest, and where owing to conditions peculiar to the property such as irregular lot size, topography, or other characteristics of the lands and not as the result of any action on the part of the property owner and/or subdivider, a literal enforcement of this chapter would result in unnecessary and undue hardship. Such modification may not authorize, however, the creation of a lot that contains less square footage than the minimum standard established by this chapter or chapter 140, pertaining to zoning.

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*Pre-submittal conference* means an initial and informal stage of subdivision review at which the developer may make known preliminary plan proposals and the ~~planning officer~~zoning administrator may respond and/or advise the developer concerning the subdivision standards.

*Protective covenants* mean contracts made between private parties or conditions recorded with an approved plat and running with the land, specifying the manner in which land may be used, developed, or improved with the view to protecting and preserving the physical and economic integrity of any given area.

*Reserve strip* means a strip or parcel of land along, or around, or between properties, the purpose of which is to restrict access.

*Re-subdivision* means a change in a map of any approved or recorded subdivision plat altering the lots incorporated within the confines of the original plat.

*Right-of-way* means a strip of land designated, reserved, dedicated, occupied, or purchased for the purpose of pedestrian or vehicular access, road, railroad, sanitary sewer or stormwater drainage, water main, shade trees, or utility line installation, or other special use.

*Roadway* means the actual road surface including necessary road shoulders and drainage facilities including ditches and curbing and guttering, which is utilized to transport motor vehicles.

*Roadway drainage structure* means a device, such as a bridge, culvert, or ditch composed of a virtually non-erodible material such as concrete, steel, plastic, or other material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carries water to a release point on the other side.

*Sanitary sewer* means a municipal or community sewerage collection, treatment, and disposal system.

*Sediment* means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity; the product of erosion.

*Setback line* means the line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

*Slope* means the degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

*Stabilization* means the process of establishing an enduring soil cover of vegetation and/or mulch or other ground cover and/or in combination with installing temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

*State waters* means any and all rivers, streams, creeks, branches, lakes reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership or corporation.

*Stop-work orders* mean a notice from the city building inspector or mayor and council or their representative that requires all work on a development to cease except corrective measures to the violation stated in the notice.

*Street* means a right-of-way for vehicular traffic, whether designated as street, highway, thoroughfare, parkway, road, avenue, drive, expressway, boulevard, lane, place, circle, alley, or otherwise. (The following definitions are consistent with the state department of transportation functional classification system, but in the event of a conflict, the definitions of this chapter shall control.)

*Alley or service drive* means a minor access way used for service access, or property access under specified circumstances, to the back or side of properties otherwise abutting on a street.

*Arterials* mean roads designed to carry rapid, continuous traffic to major magnets within the city; will usually pass through or near the heart of a municipality, connecting residential, commercial, industrial and public activity areas.

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*Bypass* means a highway designed for fast, continuous movement of all types of traffic between highways and widely separated parts of the urban area. Bypasses generally have limited or controlled access and are usually grade-separated at railroads and major crossings.

*Collector streets* means a street bringing traffic to arterials, or interconnecting arterials. A street that provides for relatively easy movement at moderate speeds from homes and businesses to arterials.

*Cul-de-sac* means a local street or road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

*Frontage street* means a street parallel and adjacent to major thoroughfares or arterial streets which provides access to abutting properties with protection from through traffic.

*Half-street* means a street or road adjacent to a subdivision tract boundary where only one-half the required right-of-way and road improvements are provided within the proposed subdivision and the responsibility for the other one-half is undecided or is left to the adjacent property owner.

*Local streets* means a street providing direct access to abutting properties.

*Street (private)* means a right-of-way serving two or more properties that is not dedicated to public use. Any such right-of-way shall be recorded on a plat or deed with a statement that the right-of-way will not be maintained by a government entity.

*Street (public)* means a right-of-way arising by purchase, dedication, or public use which is maintained by a government entity or agency thereof; accessible to, supported and shared by all members of the public.

*Street line or right-of-way line* means a dividing line between a lot, tract, or parcel of land and a contiguous street.

*Subdivider* means any person who undertakes the subdivision of land, and any person having such a proprietary interest in land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this chapter, or the authorized agent of such person.

*Subdivision* means the division of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, for sale, legacy, or building development, and includes re-subdivision and leaseholds of property, but not buildings and, when appropriate to the context, relates to the process of subdividing or to the land or area subdivided. With the exception of conservation design subdivisions as addressed in article V of this chapter, the resulting lot dimensions must conform to the minimum lot dimensions specified in chapter 140, pertaining to zoning, and/or the regulations of the county board of health for individual on-site sewage management systems, if applicable. For the purpose of this chapter, the definition of a subdivision is broken down into three subcategories as follows:

- (1) *Exempt subdivisions of land.* Divisions of land that have the following characteristics are exempt from review and action by ~~the planning commission or the planning officer~~ the zoning administrator under the subdivision regulations as set forth in this chapter. Such exemption shall not require the city to issue permits for construction if the resulting lots or parcels fail to meet any applicable regulations of the city concerning lot size, lot width, access, and other dimensional requirements. ~~(Note: If the subject lot is within 200 feet of public sewer, then the connection to public sewer is mandatory. If the subject subdivision is within 500 feet of public sewer, then the connection to public sewer is mandatory.)~~
  - a. The sale of entire lots consistent with previously approved and recorded plat or deeds;
  - b. The combination or recombination of portions of previously platted and undeveloped lots where the total number of lots is not increased and the resulting lots equal or exceed the minimum standards of this chapter or chapter 140, pertaining to zoning;
  - c. The sale of all portions of an existing lot or parcel to one or more adjoining landowners for recombination into one or more adjacent lots or parcels;

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- d. The acquisition of right-of-way by any county, city, governmental unit, the Georgia Regional Transportation Authority (GRTA), or the Georgia Department of Transportation (GDOT).
- (2) *Minor subdivisions of land.* All subdivisions of land, which front on an existing public or private local street; do not require any new or improved street; do not require a request for variance from any of the provisions of this chapter; do not require the extension of public utilities on public rights-of-way; and, are not in conflict with any of the provisions of this chapter, including the following specific examples:
    - a. The division of land among heirs or beneficiaries by judicial decree;
    - b. The sale of a portion of an existing lot or parcel to an adjoining landowner for combination therein requires platting the final dimensions of all affected lots;
    - c. The division of a portion of a lot or parcel by the owner thereof solely for the purpose of placing said divided portion as collateral for a security instrument.
  - (3) *Major subdivisions of land.* All subdivisions not classified as exempt or minor subdivisions. (Note: new street construction or extensions of public water, sewer service, or other utility service are required in a major subdivision.)

*Townhouse* means one single-family dwelling unit connected in a row of at least two such units in which each unit has its own lot with a front and rear yard, and no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls.

*Variance* means a minimal relaxation or modification of the strict terms of this chapter granted by the ~~planning commission~~ city council where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property such as irregular lot size, topography, or other characteristics of the land, and not as the result of any action on the part of the property owner, a literal enforcement of this chapter would result in unnecessary and undue hardship. Such modification may not authorize, however, the creation of a lot that contains less square footage than the minimum standard established by this chapter or chapter 140, pertaining to zoning.

*Water system.*

- (1) *Public water system* means a system owned and operated by the city for the provision to the public of ~~pip~~ potable water for human consumption, ~~if such system has at least 15 service connections, or regularly serves an average of at least 25 individuals daily, at least 60 days out of the year in accordance with the Rules of Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-5, "Rules for Safe Drinking Water," as amended.~~
- a. ~~*Governmental public water system* means a public water system, which is owned and operated by a governmental entity, or a legislatively created authority. Such connections must also be consistent with the terms of the local service delivery agreement, as amended.~~
- b. ~~*Nongovernmental public water system* means a public water system, which is owned and operated by any nongovernmental entity.~~
- (2) ~~*Community water system* means a system serving more than one single-family dwelling but fewer than the connections and/or persons required to be considered a public water system.~~
- (3) ~~*Individual water supply system* means a system of piping, pumps, tanks, or other facilities, which utilizes groundwater to supply a single-family dwelling.~~

*Watercourse* means any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

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(Ord. of 10-12-2007, § 2.2; Ord. of 10-12-2007(2), § 1)

**Secs. 135-11—135-38. Reserved.**

## **ARTICLE II. ADMINISTRATION**

### **Sec. 135-39. Designation of administrator.**

This chapter shall be administered by the ~~planning commission and the planning officer~~ city administrator or zoning designated administrator designated by the mayor and council.

(Ord. of 10-12-2007, § 3.1)

### **Sec. 135-40. Variance.**

When there is a request from a property owner and/or subdivider, it must be in written form, and where the ~~planning commission~~ city council finds that extraordinary or unnecessary hardships may result from strict compliance with these regulations, and that the property owner and/or subdivider meets the conditions of a variance as defined, and as provided by the term "variance" as defined in section 135-10, the ~~planning commission~~ city council may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of other plans and policies of the mayor and council. ~~Any decision of the planning commission as to a variance request shall be subject to a right of appeal by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.~~

(Ord. of 10-12-2007, § 3.2; Ord. of 10-12-2007(2), § 1)

### **~~Sec. 135-41. Waiver.~~**

~~When there is a request from a property owner and/or a subdivider, in written form, and where the planning commission finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety, and general welfare or is inappropriate to the proposed subdivision, the planning commission may waive such requirement subject to appropriate conditions. Any decision of a waiver request by the planning commission is subject to a right of appeal of the property owner and/or subdivider to the city council in accordance with the appeal procedure contained in article VI of this chapter.~~

(Ord. of 10-12-2007, § 3.3; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-42~~1~~. Recording of plats.**

No plat of a subdivision of land within the city shall be entitled to be recorded in the office of the clerk of superior court of the county, and it shall be unlawful to record such plat of land subdivision, unless and until the plat has received approval as a major or minor subdivision or is an exempt subdivision of land.

(Ord. of 10-12-2007, § 3.4)

**Secs. 135-43~~2~~—135-72. Reserved.**

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(Supp. No. 1)

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### **ARTICLE III. SUBDIVISION SUBMITTAL, REVIEW AND APPROVAL PROCEDURE**

#### **Sec. 135-73. Purpose.**

The purpose of this article is to establish the procedure for review and action on submittals for subdivisions of land. The procedure is intended to provide for the orderly and expeditious processing of such submittals.

(Ord. of 10-12-2007, § 4.1)

#### **Sec. 135-74. Conformance to applicable rules and regulations.**

- (a) In addition to the requirements established in this chapter, all subdivision plats shall comply with all applicable laws, resolutions, rules, or regulations, including, but not limited to:
- (1) All applicable provisions of state law, regulations, or policy (~~example: Georgia Utility Facility Protection Act~~);
  - (2) The goals, objectives, and policies within, and the future land use map of the adopted comprehensive plan (~~or equivalent~~), but subdivisions consistent with the zoning of the property shall be controlled by zoning, except for separate provisions applicable to the review and approval of conservation design subdivisions;
  - (3) The rules of the county public health department, as applicable;
  - (4) The rules, as applicable, of the Federal Highway Administration or state department of transportation, if the subdivision or any lot contained therein abuts a state or federally designated highway;
  - (5) The standards and regulations, as applicable, adopted by all other boards, commissions, and agencies having jurisdiction; and
  - (6) Any provisions that may apply as a result of any proposed development being located in an area designated by the Federal Emergency Management Agency (FEMA) as a potential flood hazard prone area.
- (b) Plat approval may be withheld if a subdivision is not in conformity with the rules set forth in subsection (a) of this section or with the provisions set forth in this chapter.

(Ord. of 10-12-2007, § 4.2)

#### **Sec. 135-75. Pre-submittal conference.**

The pre-submittal conference will serve as an informal plan review involving the developer and ~~planning officer~~ zoning administrator. The ~~planning officer~~ zoning administrator and his designees, hereinafter referred to as "staff," at that time shall determine if the submittal constitutes either an exempt, major, or minor subdivision. The purpose is to permit the subdivider to discuss his concept and proposed design. Further, staff can point out any factors that may have an impact on the proposed development and advise the subdivider of various possibilities before substantial amounts of time and money have been invested in a very detailed proposal that may contain elements contrary to this chapter. During the pre-submittal conference regulations may be distributed, the schedule of ~~planning commission~~ city council meetings noted, and department approvals and



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agency contacts identified. The pre-submittal conference is highly recommended for new developers. While such conference is optional, those developers that are familiar with the process of plat approval in the city are still encouraged to participate. At this time, a capacity letter for water and wastewater shall be required to insure adequate reservation of service is available.

(Ord. of 10-12-2007, § 4.3)

### **Sec. 135-76. Determination of subdivision type.**

Upon receipt of any subdivision plats, planning staff shall determine whether the proposed subdivision is an exempt, minor, or major subdivision of land as the term "subdivision" is defined in section 135-10. No subdivision shall be considered exempt, unless so designated by the city, through the ~~planning officer, the planning commission~~zoning administrator, the city council, or other proper agent of the city.

(Ord. of 10-12-2007, § 4.4; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-77. Submittal, review, and approval procedure for a minor subdivision.**

Subdividers requesting review and action on a minor subdivision plat shall follow the procedure described in this section.

(1) *Submittal requirements.*

- a. A final plat that has been prepared in accordance with section 135-78(2)d shall be submitted to the ~~planning officer~~zoning administrator for action, together with the prescribed fee and evidence that no taxes or assessments are outstanding against the property.
- b. When the subdivision involves a townhouse development or is considered a conservation design subdivision, a plat, including additional site plan specifications, shall be required (see section 135-78(2)e). A plat including these additional specifications may be presented in addition to or in lieu of a plat not containing these additional features.

(2) *Review procedures.* The ~~zoning administrator~~planning officer will review the plat for compliance with minimum plat specifications (section 135-78(2)d), design standards (article IV of this chapter) and conformance with all other applicable rules and regulations (section 135-74).

(3) *Approval procedures.*

- a. Upon presenting the proposed final plat and site plan, if applicable, to the ~~planning officer~~zoning administrator, all applicable "certificates of approval" shall already be endorsed except for the "certificate for approval of recording." The ~~planning officer~~zoning administrator shall approve or deny the final plat and/or site plan within 15 working days of its submittal. However, the developer may waive this requirement and consent to an extension of this period.
- b. Where a minor subdivision proposes access to a state highway, the state department of transportation shall determine the feasibility of such access (O.C.G.A. § 32-6-151). The ~~planning officer~~zoning administrator shall include the requirements of the department of transportation in any action taken upon a proposed minor plat.
- c. If the plat and/or site plan approval is denied by the ~~planning officer~~zoning administrator, the subdivider may request that the ~~planning commission~~city council review the plat and/or the site plan, pursuant to the submittal and approval procedure contained in section 135-78(2), and in which case the ~~planning commission~~city council may affirm the denial of the ~~planning officer~~zoning administrator or may approve the plat and/or site plan and overrule the ~~planning officer~~zoning administrator.

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~~officerzoning administrator. Should the planning commission approve the denial by the planning officer, then the property owner and/or the subdivider shall have a right of appeal to the city council in accordance with the appeal procedure contained in article VI of this chapter.~~

(Ord. of 10-12-2007, § 4.5; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-78. Submittal, review and approval procedure for a major subdivision.**

Any applicant requesting approval of a proposed major subdivision shall follow the procedure described in this section in order to secure approval. Subdividers wishing review and action on a major subdivision shall follow the procedure described in this section.

- (1) *Preliminary plat.* Subsequent to an ~~optional~~ pre-submittal conference with the ~~planning officerzoning administrator~~ and before any grading, site development, or construction begins, the subdivider shall submit a preliminary plat pursuant to the following sequence of submittal, review and approval procedures.
  - a. *Submittal requirements.*
    1. The subdivider shall submit a preliminary plat that has been prepared in accordance with subsection (1)d of this section, together with the prescribed fee, to the ~~planning officerzoning administrator~~, who will coordinate with the ~~planning commission (and coordinate with the city council in the event of an appeal)~~ and other interested parties, the activities of the review and approval (and appeal) process.
    2. When the subdivision involves a townhouse development or is considered a conservation design subdivision, a plat, including additional site plan specifications, shall be required (see subsection (2)e of this section). Preliminary plats including site plan specifications may be presented either in addition to or in lieu of a plat not containing these additional features.
    3. A minimum of five copies of the preliminary plat (seven copies where subdivision proposes access to a state highway) and supporting documentation shall be submitted to the ~~planning officerzoning administrator~~. The submission shall occur a minimum of 15 working days prior to the meeting ~~with the zoning administrator~~ ~~date of the planning commission at which the subdivider desires the planning commission to take official action~~. At the discretion of the ~~planning officerzoning administrator~~, this time limit may be waived.
    4. If a subdivision proposes access to a state highway, then the department of transportation shall receive two copies of the proposed plat to determine the feasibility of such access (O.C.G.A. § 32-6-151). The ~~planning commission~~ ~~city council~~ shall include the requirements of the department of transportation in any action taken upon a proposed plat.
    5. In the event that the subdivider plans to secure approval of his subdivision layout by the Federal Housing Administration or other federal or state agency, it is suggested that such approval be secured prior to the submission of a preliminary plat to the ~~planning commissionzoning administrator~~.
  - b. *Review procedures.* Review of the preliminary plat is the most important step in any development review in order to identify problems or obstacles that will inhibit the proposed development. The ~~planning officerzoning administrator~~ will review the plat for compliance with minimum plat specifications (subsection (1)d of this section), design standards (article IV of this chapter) and conformance with all other applicable rules and regulations (section 135-74). The ~~planning officerzoning administrator~~ will coordinate and forward copies of the plat such that all affected

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parties, including, but not limited to, those responsible for streets, drainage, provisions for fire, water, sewer, and other infrastructure may conduct individual reviews of the plat.

c. *Approval procedures.*

1. The ~~planning officer~~ zoning administrator will direct the preliminary plat to the ~~planning commission for review and action. Within within~~ 90 days after the date of review by the ~~planning commission, the planning commission~~ receipt shall approve, or approve with condition, or disapprove the preliminary plat.
2. Failure of the ~~zoning administrator~~ planning commission to act within 90 days shall be deemed approval of the plat and a certificate to that effect shall be issued ~~by the planning commission on demand~~; provided, however, that the applicant ~~for the planning commission's approval~~ may waive this requirement and consent in writing to the extension of the period. The grounds for disapproval of any plat shall be stated in writing ~~upon the records of the planning commission~~ and a copy of the grounds provided to the subdivider. ~~After official action by the planning commission, a letter shall be issued by the planning officer to the subdivider notifying the subdivider of the official action. Any conditions attached to the official action shall be stated and if the preliminary plat is denied the reasons for denial shall also be stated.~~
3. ~~Planning commission~~ City approval of a preliminary plat shall be considered valid for a period of two years from the date of plat approval.
4. In the event that the ~~zoning administrator~~ planning commission should disprove a preliminary plat (or approve the plat with conditions or additional requirements), then the property owner and/or subdivider shall have a right of appeal of the decision by the ~~zoning administrator~~ planning commission to the city council in accordance with the appeal procedure contained in article VI of this chapter.

d. *Preliminary plat specifications.* The preliminary plat shall be prepared by a state-registered surveyor; if a landscape architect or civil engineer contributed to the plat, then so indicate. The plat shall be drawn at a scale no smaller than 100 feet to an inch. The plat shall be drawn in permanent ink on reproducible material not exceeding 20 inches by 24 inches and shall include:

1. Proposed name of subdivision, with R/Ws and names of new streets and existing streets;
2. Name, address, and telephone number of person to be notified of action;
3. Name, address, and license number of the register surveyor responsible for the preparation of the plat;
4. Graphic scale, north arrow and date of plat preparation;
5. Total acreage in single parcel ownership by the subdivider; the total number of acres being subdivided; the total number of lots created; and total linear length of streets;
6. A general location map showing the proposed development in relation to other adjacent properties and existing streets in the city area;
7. The location and dimensions of all boundary lines of the property to the nearest hundredth of a foot and the deed record names of adjacent owners or subdivisions shall be identified;
8. The location and dimensions of existing rights-of-way, streams (showing stream buffers, as amended), drainage structures, or utilities, buildings, lakes, and lands subject to flooding; if applicable, the 100-year floodplain should be shown;

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9. Topography by contours at vertical intervals of not more than five feet based upon mean sea level (MSL); the contour requirement may be waived or the interval adjusted up or down based on the need as determined by the ~~planning officer~~ zoning administrator;
  10. The layout and scaled dimensions of all lots and streets; the location, purpose, and dimensions of all existing and future drainageways and easements; the size of the drainage area in acres must be provided and the size and location of all existing and proposed drainage tiles shall be shown;
  11. The location and dimension of all property proposed to be set aside for recreation use or other public use, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation;
  12. Centerline profile of all proposed streets showing natural and finished grades and proposed street names; and a cross section of the proposed street design;
  13. Front setback lines;
  14. Statements on the plat to indicate the applicable service to the proposed development:
    - (i) Water = Public water ~~or individual well. If a public water system is proposed using a well supply, then the proposed location of the well shall be shown.~~ All existing wells shall be shown; rock outcrops, marshes, springs, and other outstanding topographic features shall be designated.
    - (ii) Sewage disposal = Public sewer ~~or individual septic tanks. If individual septic tanks are proposed then soil types shall be shown upon the plat in compliance with the requirements of the county health department.~~
  15. Draft of proposed restrictive covenants, if any, to be imposed and designation of areas subject to special restrictions;
  16. Environmentally sensitive areas: location of major river corridors, water supply watersheds, groundwater recharge areas, wetlands, the boundary and elevation of the 100-year floodplain as determined by the past history of flooding or best available data;
  17. A soil erosion and sediment control plan as required by the city's soil erosion and sedimentation ordinance set forth in chapter 120;
  18. Locate and size all drainage areas and drainage tiles affecting the proposed subdivision.
- (2) *Final plat.* Subsequent to approval of the preliminary plat, the developer shall submit a final plat pursuant to the following sequence of submittal, review, and approval procedures.
- a. *Submittal requirements.*
    1. Before a final plat is submitted to the ~~zoning administrator~~ planning officer for review and action, one of three criteria must have been met. These criteria are:
      - (i) No public utilities extensions or public or private streets are necessary on the part of the developer;
      - (ii) The proposed public improvements which were approved in the preliminary plat have been completed in accordance with approved standards, and certificates of satisfactory completion have been obtained from the appropriate authorities; or
      - (iii) The developer/subdivider may submit an appropriate bond, irrevocable letter of credit, or funds in escrow in an amount not less than 110 percent of the

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estimated expenses of construction to proper standards and shall complete construction within one year of the issuance of the first building permit for a lot along such road.

2. Under such circumstances, the security shall be posted with the applicable department or agency that will bear the responsibility of completing the public improvements should the developer default. Further, the developer/subdivider shall indemnify the city, including, but not limited to, all elected officials, employees, agents, attorneys, and anyone acting on behalf of the city, from any and all liability associated with any failure of the developer/subdivider in connection with his status as a national pollution discharge elimination system (NPDES) permit holder, or any failure of the developer/subdivider to construct any public improvements to the standards required by the city.
  3. The developer shall submit the final plat to the ~~zoning administrator~~ planning officer, prepared in accordance with subsection (2)d of this section. When the subdivision involves a townhouse development or is considered a conservation design subdivision, a plat, including additional site plan specifications, shall be required (see subsection (2)e of this section).
  4. A minimum of five copies of the final plat and site plan, if applicable, and all supporting documentation shall be submitted to the ~~planning officer~~ zoning administrator within two years from the date the preliminary plat was approved; if not, such preliminary plat approval shall lapse.
  5. If the developer places restrictions on any of the land contained in the subdivision greater than those required by this chapter, such restrictions or reference thereto shall be identified on the plat by the following statement: Restrictive covenants apply to the subdivision of lots shown hereon. Also, both the plat and covenants shall be recorded referencing each other. Conservation design subdivisions (section 135-135(e) through (g)) specifically require mechanisms for securing the ownership, maintenance, and perpetuity of open space established through the subdivision review process.
- b. *Review procedures.* The ~~zoning administrator~~ planning officer will review the plat for compliance with minimum plat specifications (subsection (2)d of this section), design standards (article IV of this chapter) and conformance with all other applicable rules and regulations (section 135-74).
- c. *Approval procedures.*
1. Within 30 working days after the date of plat submission to review and action by the ~~planning officer~~ zoning administrator, including all required supporting data and certifications, the ~~zoning administrator~~ planning officer shall approve or disapprove the final plat and/or site plan.
  2. Failure of the ~~zoning administrator~~ planning officer to act within 30 days after the date of submission review shall be deemed approval of the plat and/or site plan and a certificate to that effect shall be issued by the ~~planning officer~~ zoning administrator on demand; provided, however, that the applicant for the ~~zoning administrator~~ planning officer's approval may waive this requirement and consent to the extension of the period. The grounds for disapproval of any plat and/or site plan shall be stated in writing and a copy of the grounds provided to the subdivider.
  3. Approval of the final plat and/or site plan, if applicable, by the ~~zoning administrator~~ planning officer shall not be deemed an acceptance by the city or the public of the dedication of any street or other ground shown upon the plat or site plan. The subdivider

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must prepare deeds of conveyance for each right-of-way or other public space and separate action is required before the mayor and council.

- d. *Final plat specifications.* The final plat shall be prepared by a state-registered surveyor. If a landscape architect or civil engineer, licensed to practice in the state, contributes to the plat, then appropriate seals, preferably at 100 feet to an inch, but in no case smaller than 200 feet to an inch, shall be shown. The plat shall be drawn in permanent ink on reproducible material on sheets not exceeding 17 inches by 22 inches, and shall include:
1. Name of subdivision and street names;
  2. Name, address, and telephone number of person to be notified of action;
  3. Name, address, seal and license number of registered surveyor; the signature of the surveyor shall be across the seal in black ink for the plat to be valid; also, seals of landscape architects or civil engineers, if appropriate;
  4. Date of plat drawing, graphic scale, north point, notation as to the reference of bearings to magnetic, true north, or grid north and indication whether bearings shown are calculated from angles turned or taken from compass readings;
  5. Location of tract (land district and land lot) giving total acreage being subdivided; total number of lots created; and total length of new streets within the development;
  6. Location sketch map showing the relationship of the plat to other existing streets and properties in the county;
  7. Index map where more than one sheet is required to present plat (note: multiple sheets shall each be named to conform with the title sheet and designated for example: 1 of 3, 2 of 3, and 3 of 3);
  8. Identify the point of beginning (POB) tied to the nearest existing street intersection or nearest land lot line or district line;
  9. Exact boundary lines of the tract, to be indicated by a heavy line giving distances to the nearest  $\frac{1}{10}_0$  foot and angles to the nearest minute, which shall be balanced and closed with an error of closure to be one foot in 8,500 feet or better. The error of closure shall be stated on the plat;
  10. City, county or land lot lines accurately tied to the lines of the subdivision by distance and angles when such lines traverse the subdivision;
  11. Street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature;
  12. Lot lines with dimensions to the nearest  $\frac{1}{10}_0$  foot, necessary internal angles, arcs, and chords and tangent or radii of rounded corners;
  13. Front setback lines;
  14. Lots or sites numbered in numerical order or numbered in relationship to each phase of development;
  15. Location, dimensions and purpose of all drainage structures and of any easements; including slope easements, and public service utility right-of-way lines, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners;

16. Final plan of sanitary sewers (if applicable) with grade, pipe size and manhole locations;
  17. Final plan of water supply system (if applicable) with pipe sizes and location of valves, pipes and fire hydrants;
  18. Final plan of electrical, telephone, television cable, and gas (if applicable) service with locations shown, pipes and valves sized and located (as applicable);
  19. Accurate location of monuments and markers;
  20. The boundary and elevation of the 100-year floodplain as determined by the past history of flooding or best available data;
  21. Certificates and statements as specified in subsection (2)f of this section;
  22. If a declaration of covenants and restrictions apply to the subdivision, then such covenants and restrictions shall be presented before the final plat is approved; the plat shall contain a statement: Restrictive covenants apply to the subdivision of lots shown hereon.
- e. *Site plan specification requirements.* In addition to the required specifications for a major subdivision plat, the site plan shall include:
1. Location of parking spaces showing, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions;
  2. Location of open space areas or recreational facilities;
  3. Location of buffers and/or vegetation where required; and
  4. Building locations.
- f. *Final plat certificates of approval.* Each final plat submitted shall carry certificates of approval appropriate to the particular development and signed by the appropriate departmental authorities. At least five certificates shall be required. Examples of these certificates follow. Certificates on the final plat must reflect the content of these model certificates, but the language of the certificates may be changed at the discretion of the zoning administrator/planning officer to reflect special circumstances.
- (3) *Certificate of ownership.* A certificate of ownership shall be affixed to the final plat. Two examples follow. The first example should be used in the case of the dedication of infrastructure and public grounds to the city. The second example should be used in the establishment of a property owner's association for the purpose of the maintenance of infrastructure and public grounds.

Certificate of Ownership

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision [and restrictive covenants thereto]. I (we) further certify that it is our intent to dedicate to the City of Blue Ridge at the appropriate time all streets, drains, and public grounds shown hereon.

Owner	
Owner	
Date	

Certificate of Ownership

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision [adopt restrictive covenants applicable thereto], and establish a property owner's association, \_\_\_\_\_ (name of association) to retain and maintain for private use all streets, parks, drains, easements, and common grounds, shown hereon.

Owner	
Owner	
Date	

- (4) *Final accuracy and design certificate.* A registered state land surveyor shall certify accuracy of the final plat. The following example should be used.

Final Accuracy and Design Certificate

I hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision: that all monuments shown hereon actually exist and their location, size, type, and material are correctly shown; and that all requirements of the City of Blue Ridge Subdivision Regulations have been fully complied with, and approval of this subdivision plat does not relieve me of any liability associated with inaccuracies or improper design.

Registered Georgia Land Surveyor No. \_\_\_\_  
(and Seal)

By	
Date	

- (5) *Certificate of approval for fire protection.* A certificate of approval for fire protection shall be affixed to the final plat. The following example should be used.

Certificate of Approval for Fire Protection

I hereby certify that the location of the fire hydrants in this subdivision are installed (planned for installation) in conformance with recommendations of the ~~City of Blue Ridge~~ County Fire Chief.

<del>City of Blue Ridge Public Works Director</del> <u>County Fire Chief</u>	
Date	

- (6) *Certificate of approval of a public water system, public sanitary system, and streets and drainage.* The final plat shall bear certification of approval of a public water system, public sanitary system, and streets and drainage. Two examples follow. If the subdivision is served by a public water system, and public sanitary system, and the streets and drainage structures thereon have been installed in an acceptable manner, the first example certificate should be affixed to the final plat. If the subdivision is ~~served~~ not served by a public sanitary system, but is served by a public water system, and the streets and drainage thereon have been installed in an acceptable manner, the second example certificate should be affixed to the final plat.



Certificate of Approval of a Public Water System, Public Sanitary System, and Streets and Drainage

I hereby certify that the water system outlined and the public sanitary system serving the lots on this Final Subdivision Plat have been installed in accordance with the requirements of the City of Blue Ridge, and that all new public or private streets and drainage structures on this final subdivision plat have been installed in an acceptable manner and according to the specifications of the City of Blue Ridge Subdivision Regulations [or that a bond or other surety has been filed to guarantee said installation.]

<del>Blue Ridge Planning Officer</del> City Engineer	
Date	

Certificate of Approval of a Public Water System and Streets and Drainage

I hereby certify that the water system outlined on this Final Subdivision Plat has been installed in accordance with the requirements of the City of Blue Ridge, and that all new public or private streets and drainage structures on this final subdivision plat have been installed in an acceptable manner and according to the specifications of the City of Blue Ridge Subdivision Regulations, [or that a bond or other surety has been filed to guarantee said installation.]

<del>Blue Ridge Planning Officer</del> City Engineer	
Date	

- (7) *Certificate of approval for recording (minor subdivision).* A certificate of approval for recording shall be affixed to the final plat. Two examples follow. If the subdivision is a minor subdivision, the following example certificate of approval for recording (minor subdivision) should be affixed to the final plat; if the subdivision is a major subdivision, the following example certificate of approval for recording (major subdivision) should be affixed to a final plat.

Certificate of Approval for Recording (Minor Subdivision)

The City of Blue Ridge certifies that this plat complies with the minor subdivision provisions of the City of Blue Ridge Subdivision Regulations, (with the exception of such variances, if any, as are noted on the plat and in the minutes of the ~~planning commission or the city council~~, as applicable), and that it has been approved for recording in the Office of the Clerk of the Superior Court of Fannin County, Georgia.

<del>Zoning Administrator</del> Blue Ridge Planning Officer	
Date	

Certificate of Approval for Recording (Major Subdivision)

I hereby certify that the final subdivision plat shown hereon has been reviewed by the ~~Blue Ridge Municipal Planning Commission or the Blue Ridge City Council~~ Zoning Administrator, as applicable, and has been found to comply with the City of Blue Ridge Subdivision Regulations (with the exception of such variances, if any, as are noted on the plat and in the minutes of the ~~planning commission or the~~

city council, as applicable) and that it has been approved for recording in the Office of the Clerk of the Superior Court of Fannin County, Georgia.

Blue Ridge <del>Planning Officer</del> Zoning Administrator	
Date	

(Ord. of 10-12-2007, § 4.6; Ord. of 10-12-2007(2), § 1)

**Secs. 135-79—135-99. Reserved.**

## **ARTICLE IV. DESIGN AND IMPROVEMENT STANDARDS**

### **Sec. 135-100. Purpose.**

The purpose of good subdivision and site design is to create a functional and attractive development, to minimize adverse impacts, and to ensure that projects will be designed to result in a well-planned community without adding unnecessarily to development costs.

(Ord. of 10-12-2007, § 5.1)

### **Sec. 135-101. General principles of design.**

- (a) *Site analysis.* An analysis shall be made of characteristics of the development site, such as site context, geology and soil, topography, climate, ecology, existing vegetation, structures, and road networks, visual features, and past and present use of the site. Development of the site shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.
- (b) *Suitability of the land.* Land which the ~~planning commission~~ zoning administrator finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which would be harmful to the safety, health, and general welfare of inhabitants of the land and surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the ~~planning commission~~ zoning administrator to solve the problems created by the unstable land conditions. The decision of the zoning administrator ~~planning commission~~ as to whether the developer (subdivider) has formulated adequate methods to solve the problems created by the unstable land conditions may be appealed by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.

(Ord. of 10-12-2007, § 5.2; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-102. General subdivision design standards.**

- (a) *Monuments.* The subdivider shall place permanent reference monuments in the subdivision as required herein and as approved by a registered surveyor. Monuments shall be located and set as follows:

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- (1) Monuments shall be located on street right-of-way lines, at street intersections and at the beginning and ending points of curves.
  - (2) All lot corners shall be marked by iron rods, pipe, or pins at least 18 inches long and five-eighths inch in diameter.
  - (3) The lines of lots that extend to rivers or streams shall be monumented in the field by iron pins at least 18 inches long and five-eighths inch in diameter or by round or square iron bars at least 18 inches long. Such pins shall be placed at the point of intersection of the river or stream and lot line, with a meander line established not less than 20 feet back from the bank of the river or stream.
  - (4) All monuments and pins shall be properly set in the ground and approved by a registered surveyor prior to the time the ~~planning officer~~ zoning administrator recommends approval of the final plat or release of the bond where bond is made in lieu of improvements.
- (b) *Name of subdivision.* The name of the subdivision must have approval of the zoning administrator ~~planning commission or planning officer~~. The name shall not duplicate nor closely approximate the name of an existing subdivision within the city or in any other county jurisdiction. The denial of a name of a subdivision by the zoning administrator ~~planning commission or the planning officer~~ may be appealed by the property owner and/or the developer to the city council pursuant to the appeal procedure contained in article VI of this chapter.
- (c) *Residential development design.*
- (1) The zoning administrator ~~municipal planning commission~~ may require alternative lot area and dimensions provided that lots conform to the minimum requirements of chapter 140, pertaining to zoning, and provided that such standards shall be appropriate to the type of development permitted. The zoning administrator ~~planning commission~~ may also review and approve alternative lot area, frontage, setbacks, and/or heights as allowed by article V of this chapter, pertaining to conservation design subdivisions, provided that such standards shall be appropriate to the type of development permitted and is used to protect natural resources. Deviation from the typical lot-by-lot requirements of chapter 140, pertaining to zoning, is applicable only to conservation design subdivisions and the approval of the required subdivision plats and site plans. Decisions by the zoning administrator ~~planning commission~~ pursuant to this section may be appealed by the property owner and/or developer to the city council pursuant to the appeal procedure contained in article VI of this chapter.
  - (2) Each lot or parcel shall have sufficient access to serve the principal use of the property, as well as emergency vehicles needing access to the lot or parcel.
  - (3) The creation and shape of individual lots in residential developments shall take into consideration topography, privacy, orientation, drainage, and aesthetics to enhance the benefit and enjoyment of residential occupancy into the future.
- (d) *Industrial and commercial development design.* Commercial and industrial development shall be designed according to the same principles governing the design of residential developments; namely, buildings shall be located according to topography with environmentally sensitive areas avoided to the maximum extent practicable. Factors such as drainage, noise, odor, surrounding land uses and sufficient access shall be considered.
- (e) *Circulation system design.* The road system shall be designed to permit the safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical pattern; to respect natural features and topography; and to present an attractive streetscape.
- (f) *Access by private streets.* Private streets may be permitted by the zoning administrator ~~planning commission~~ in subdivision developments where controlled access or privacy is desired by the developer provided such

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streets meet the following conditions. All private streets shall be constructed to the specifications of the city; however, private streets within conservation design subdivisions are provided additional flexibility as addressed in article V of this chapter and in appendix B-II to this chapter. Developer or developer's successor must provide access for emergency vehicles of the city or any other governmental entity.

- (1) The preliminary and final plats of a development proposing private streets shall show a statement indicating: The street system is private and will not be maintained or improved by the city.
- (2) The plat review ~~before the planning commission~~ shall also include evidence of the legal formation of a property owners association to be charged with the minimum responsibility for maintenance of the private street. Such legal documentation shall be recorded and referenced as an attachment to the final plat.
- (3) The deed for each lot or parcel sold from the plat shall also contain the statement: The maintenance and improvement of the private street providing access to the described lot is the responsibility of the property owners and not the city.

~~The denial of approval of a private street or streets by the planning commission may be appealed by the property owner and/or developer to the city council pursuant to the appeal procedure contained in article VI of this chapter.~~

(Ord. of 10-12-2007, § 5.3; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-103. Special provisions governing unit ownership (townhouse subdivisions).**

- (a) *General provisions.* Whenever a developer, the sole owner, or the co-owners of a building expressly declare through the submission of a master deed, lease, or plat their desire to submit their property to a regime wherein there is established a horizontal property regime, each such townhouse or property regime created for the purpose of sale or transfer of real property is subject to the provisions of these standards.
- (b) *Submission of plat required.* Prior to the sale or transfer of any property incorporated in the property regime, the developer (subdivider), sole owner, or co-owners of such property shall submit to the ~~zoning administrator~~ planning commission and obtain their approval, or the approval of the city council pursuant to the appeal process contained within article VI of this chapter, of the subdivision plat of each property in the manner prescribed in this chapter.

(Ord. of 10-12-2007, § 5.4; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-104. Lot design standards.**

All lots hereafter established in connection with the development of a subdivision shall comply with the following design standards.

- (1) *Lot lines.* Insofar as practical, side lot lines shall be perpendicular or radial to street lines.
- (2) *Jurisdictional limits and lot lines.* Lots shall not be divided by city or county boundary lines.
- (3) *Lot access.* Each lot created shall have direct abutting access, 40 feet wide, to an approved public or private street. Lots, however, within a conservation design subdivision are exempt from such requirement as provided in chapter 140, pertaining to zoning, and article V of this chapter.
- (4) *Setback lines.* Setback lines per lot shall be as required by chapter 140, pertaining to zoning; however, conservation design subdivisions are exempt from such setbacks in lieu of flexibility provided by said chapter 140, pertaining to zoning, and article V of this chapter.

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- (5) *Adequate building sites.* Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or building setback lines required by this chapter and any other applicable ordinance.
  - (6) *Panhandle or flag lots.* Panhandle or flag lots, of required width and area, will be allowed where terrain makes standard design or frontage impossible or impractical. Where such lots are allowed, the street frontage of each panhandle access shall not be less than 40 feet wide and the panhandle access shall be not more than 200 feet long. Not more than two such panhandle access points shall abut each other.
  - (7) *Double or reverse frontage lots.* Double and reverse frontage, unless required by the zoning administrator ~~planning commission, planning officer~~, or required by the city council pursuant to an appeal, shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography, orientation, and property size. A planted screen reservation of at least five feet, across which there shall be no right of access, may be required along the line of lots abutting such traffic arterials or other disadvantageous use.
  - (8) *Lot grade to street grade.* Any lot whose natural grade at the building line is 12 feet or more above the finished grade of the street on which it fronts may be required to be provided with an approved access way to the lot from other than the street upon which it fronts.
  - (9) *Corner lots.* Corner lots shall be sufficiently large to permit the location of buildings so as to conform to the minimum front building setback requirement on both streets. The remaining lot lines shall meet side building setback requirements.
  - (10) *Lot remnants.* Lot remnants shall be prohibited. Such remnant areas shall be added to adjacent lots, rather than remain as unbuildable parcels.
  - (11) *Easements.* Easements, with designated widths and purposes shown on the plat, shall be provided in subdivisions for the following purposes:
    - a. *Utility easements.* When it is found to be necessary and desirable to locate public utility lines in other than street rights-of-way, easements shall be shown on the plat for such purposes. Such easements shall not be less than 20 feet in width or in concurrence with the width required by the utility provider. Where possible, such easements shall be centered on rear or side lot lines.
    - b. *Watercourse and drainage easements.* Where a proposed subdivision is traversed by a watercourse, drainageway, or stream, appropriate provisions shall be made to accommodate stormwater and drainage through and from the proposed subdivision. Such easement shall conform substantially with the lines of said watercourse and be of sufficient width or construction, or both, as to be adequate for the purpose.

Where appropriate, the utility provider or applicable department of the city, at their request, shall be provided with the written legal mechanism necessary to document the location, width, and purpose of such perpetual easement.

- (12) *Residential lot depth.* Residential lot depth shall not be more than four times the lot width at the building line.
- (13) *Commercial and industrial lots.* Commercial and industrial subdivisions of land shall be subject to the approval of zoning administrator ~~the planning commission or planning officer~~ and shall comply with the requirements of chapter 140, pertaining to zoning.
- (14) *Minimum lot dimensions and area.* Except for lots within a conservation design subdivision (see article V of this chapter), the minimum lot area, the minimum lot width at the front building lines, and the setback lines shall be as required in chapter 140, pertaining to zoning, or in conjunction with the requirements of the county health department, as applicable.

**Sec. 135-105. Street design standards.**

All streets, whether public or private, which shall hereafter be established in connection with the development of a major subdivision shall comply with any construction specifications of the city.

- (1) *Access to arterials and collectors.* Where a subdivision borders on or contains an existing or proposed arterial or collector route, the ~~zoning administrator, planning commission or planning officer,~~ or the city council pursuant to an appeal, may require that access to such street be limited by:
  - a. The subdivision of lots so as to back on to the arterial or collector street and front on a parallel local street;
  - b. A series of cul-de-sac, "U"-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial or collector street; or
  - c. A frontage street.
- (2) *Reserve strips.* The creation of reserve strips adjacent to a proposed street in such a manner as to deny access from adjacent property to such street shall generally not be permitted. However, in extraordinary circumstances the ~~zoning administrator, planning commission~~ may allow creation of a reserve strip to enable a more appropriate pattern of lots or streets. Where such is created, the ~~planning commission, zoning administrator~~ must agree to any and all future depositions of same. A notation to this effect shall be entered on the final plat or approved as an auxiliary instrument attached thereto. The decision as to the creation of a reserve strip by the ~~zoning administrator, planning commission~~ may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.
- (3) *Arrangement of continuing and dead-end streets.* Where a subdivision will contain temporary or permanent dead-end streets they shall be designed as follows:
  - a. *Arrangement of continuing streets.* The arrangement of streets shall provide for the continuation of major streets between adjacent properties when in the opinion of the ~~planning commission, zoning administrator~~ such continuation is necessary for convenient movements of traffic, effective fire protection, efficient provision of utilities, and when such continuation is in accordance with the major street or road plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary cul-de-sac, temporary "T", or "Y"-shaped turnabout shall be provided on all temporary dead-end streets as required in the following turnabout standards, with a notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutting property owners whenever the street is continued.
  - b. *Dead-end streets.* Where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the ~~planning commission, zoning administrator~~ for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the ~~planning commission, zoning administrator~~ may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnabout shall be provided at the end of a dead-end street in accordance with the requirements of the city.
  - c. *Appeal.* The decision as to the arrangement of continuing and/or dead-end streets by the ~~zoning administrator, planning commission~~ may be appealed to the city council of the city by the

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property owner and/or developer (subdivider) pursuant to the appeal procedure contained in article VI of this chapter.

- (4) *Intersections.* Intersections of new streets in a subdivision shall comply with the following standards:
- a. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two streets at an angle of less than 75 degrees shall not be permitted. The angle of intersection is to be measured at the intersection of the street centerlines. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless approved by the ~~planning commission~~ zoning administrator.
  - b. Proposed new intersections along one side of an existing street shall coincide, wherever practicable, with any existing intersections on the opposite side of such street. Jogs within streets having centerline offsets of less than 150 feet shall not be permitted, except where the intersected streets have separated dual drives without median breaks at either intersection. Where streets intersect arterial or collector routes, their alignment shall be continuous (no jog). Intersections of arterial or collector streets shall be at least 800 feet apart.
  - c. Minimum curve radius at the intersection of two local streets shall be 25 feet, and minimum curve radius at an intersection involving a collector street shall be 30 feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
  - d. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent grade for a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.
  - e. The decisions of the ~~zoning administrator~~ planning commission as to the intersection of streets may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.
- (5) *Additional width on existing streets.* In subdivisions that adjoin existing streets, the subdivider shall dedicate additional right-of-way to meet the minimum street width requirements as follows:
- a. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the street.
  - b. When the subdivision is located on one side of an existing street, one-half of the required right-of-way measured from the centerline of the existing roadway, shall be provided.
- (6) *Street names.* Streets or roads that are extensions of or obviously in alignment with existing named streets shall bear that name. The names of new streets and roads shall be subject to the approval of the ~~zoning administrator~~ planning commission and shall not duplicate or be similar in sound to existing names of streets in the city or in any other county jurisdiction irrespective of the use of the suffix street, avenue, circle, way, boulevard, drive, place, lane, or court, etc. The denial of a name of new streets and roads by ~~zoning administrator~~ the planning commission may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.
- (7) *Railroads and limited access highways.* Railroad rights-of-way and limited access highways, where so located as to affect the subdivision of adjoining lands, shall be treated as follows:
- a. In residential areas, a buffer strip at least 25 feet in depth in addition to the normally required depth of the lot may be required adjacent to the railroad right-of-way or limited access highway.

This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening; the placement of structures hereon is prohibited."

- b. In commercial or industrial areas, the nearest street extending parallel or approximately parallel to the railroad or limited access highway shall, wherever practical, be at a sufficient distance therefrom to ensure suitable depth of commercial or industrial sites.
  - c. Streets parallel to a railroad or limited access highway, when intersecting a street which crosses the railroad at grade, shall, to the extent practical, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
- (8) *Bridges.* Bridges of primary benefit to the subdivider, as determined by the city, shall be constructed at the full expense of the subdivider without reimbursement from the city. The sharing of expenses for the construction of bridges not of primary benefit to the subdivider, as determined by the city, may be fixed by special agreement between the city and the subdivider. The cost shall be prorated to the subdivider as to the percentage of his development so served. The engineering design of all bridges shall be reviewed and approved by the city. Any preliminary plat identifying the construction of a bridge must bear the seal of a state-certified civil engineer.
- (9) *Special purpose streets.*
- a. *Half-streets.* Half-streets are prohibited. Whenever a street is planned adjacent to the proposed tract boundary, the entire street right-of-way shall be platted within the proposed subdivision.
  - b. *Split-level streets.* Streets, which are constructed so as to have two traffic ways, each at a different level within the same right-of-way, shall provide a minimum right-of-way of 25 feet per traffic way and such additional right-of-way as necessary to meet the requirements of subsection (5) of this section and a minimum paved traffic surface of 15 feet. The slope between the two traffic ways would not be less than 2:1.
  - c. *One-way streets.* If permitted by the ~~planning commission~~ zoning administrator, one-way streets shall meet a minimum right-of-way of 25 feet and a pavement width of 15 feet.
  - d. *Alleys.* Alleys or service drives may be required at the rear of all lots used for multifamily, commercial, or industrial developments but shall not be provided in one- and two-family residential developments unless the alley or services drive is to provide secondary access to a lot whose natural grade is more than 12 feet above the finished street grade, or unless the subdivider produces evidence satisfactory to the ~~planning commission~~ zoning administrator of the need for an alley or service drive; pavement width is 15 feet with or without curbs; right-of-way, 20 feet.
  - e. *Appeal.* Decisions by the ~~zoning administrator~~ planning commission as to one-way streets and/or alleys may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.
- (10) *Geometric design standards for streets.* The criteria in the following table are applicable:

<i>Table 135-105-1: Geometric Design Standards for Streets</i>			
<i>Design Item</i>	<i>Street Class</i>		
	<i>Major</i>	<i>Collector</i>	<i>Local</i>
Maximum horizontal curvature (degrees)	12	23	33



Maximum percent grade (percent)	7	12	18
Minimum vertical sight distance (feet)	275	200	200
Minimum distance between reverse curves (feet)	100	100	100

(11) *General street specifications.* The criteria in the following table are applicable. All streets must be curbed, guttered, and constructed meeting any construction specifications of the city.

<i>Design Criteria<sup>1</sup></i>	<i>Major Street Classifications</i>			<i>Minor Street Classifications</i>			
	<i>Principal Arterial</i>	<i>Minor Arterial</i>	<i>Collector</i>	<i>Dwellings per Local Street</i>			<i>Comm./Industrial<sup>2</sup></i>
				<i>&lt;12</i>	<i>13-50</i>	<i>&gt;50</i>	
Right-of-way <sup>3</sup>	Variable	Variable	60 feet	44 feet	46 feet	48 feet	50 feet
Construction width <sup>4</sup>	Variable	Variable	36 feet	24 feet	26 feet	28 feet	30 feet
Cul-de-sac turnaround r/w pavement	n.a.	n.a.	n.a.	100 feet 80 feet	100 feet 80 feet	100 feet 80 feet	102 feet 100 feet
Max. grade	8 percent	10 percent	15 percent	18 percent	18 percent	18 percent	18 percent
Min. vertical sight dist. <sup>5</sup>	500 feet	300 feet	300 feet	200 feet	200 feet	200 feet	500 feet
Min. horizontal sight dist <sup>6</sup>	400 feet	300 feet	300 feet	100 feet	100 feet	100 feet	400 feet

<sup>1</sup> All streets must be curbed, guttered, and constructed meeting any construction specifications of the city.

<sup>2</sup> In cases where the street is a cul-de-sac intended to serve primarily commercial office uses, the requirements of the highest tier residential classification shall apply.

<sup>3</sup> The pavement of local streets, being from curb to curb, must be contained upon right-of-way. The pavement of said local street is contemplated to be at a minimum of 24 feet wide. Subject to the approval of the planning commission-zoning administrator and/or the city council due to an appeal, easement area dedicated for street purposes may be substituted for the balance of the typical right-of-way width on local streets only. The set-back distance is to be measured from the easement line in the event such an easement is allowed. Required off-street parking is allowed within such easements.

<sup>4</sup> Measured from back-of-curb to back-of-curb. Street construction widths are uniform from intersection to intersection or from intersection to the cul-de-sac turnaround.

<sup>5</sup> Measured distance is between points four feet above the centerline of the street.

<sup>6</sup> Measured distance is the centerline radius of curvature.

- (12) *Stormwater infrastructure.* All subdivision developments, whether residential, commercial, or industrial, shall comply with any construction specifications of the city relative to stormwater infrastructure.

(Ord. of 10-12-2007, § 5.6; Ord. of 10-12-2007(2), § 1)

### Sec. 135-106. Street features.

(a) *Signs.*

- (1) The developer shall install street name signs, traffic control signs and any other signs as specified by the city.
- (2) Signs for street names, directions of travel, traffic control, and hazards shall be provided as directed by the planning officer/zoning administrator. Street signs on exterior or boundary streets shall be installed by the city with the developer paying a proportionate share determined by the city. Street signs for interior streets of a subdivision or land development shall be installed at the subdivider or developer's expense by the subdivider or developer, subject to the approval of the zoning administrator/planning officer.

(b) *Mailboxes.* The developer shall coordinate the lot addressing system with the county fire department.

(c) *Sidewalks.* All residential subdivisions shall be developed with the sidewalks. Sidewalks within commercial subdivisions may be required at the discretion of the zoning administrator/planning commission, which shall be influenced by reasonable proximity to existing or proposed residential developments that can benefit from the connectivity.

- (1) *Location.* Sidewalks shall be included within the dedicated non-pavement right-of-way of roads and shall parallel the street pavement as much as possible; however, the city may permit sidewalks to be designed and constructed so that they meander around permanent obstructions or deviate from a linear pattern for design purposes.

- (2) *Specifications.* Sidewalks shall be a minimum of four feet wide. A median strip of grassed or landscaped areas at least two feet wide shall separate all sidewalks from adjacent curbs in residential areas.

(d) *Street lights.* All residential subdivision street lighting shall be installed meeting any specifications adopted by the city relative to height, spacing, and intensity of streetlights.

- (1) *Type.* The light source shall be metal halide. Substitution may be allowed at the discretion of the planning officer/zoning administrator.
- (2) *Height.* Collector roads shall have light poles at 30-foot maximum to the top of the light fixture/post assembly, with 75-foot maximum spacing. Local roads shall have light poles at 18-foot maximum height to the top of the fixture/post assembly with a 50-foot maximum on-center spacing.
- (3) *Intensity.* The following table 135-106 sets forth minimum illumination intensity requirements by street type:

*Table 135-106 Street Illumination Requirements (in footcandles)*

<i>Facility Type</i>	<i>Residential</i>	<i>Commercial/Industrial</i>
Arterial/major collector road	0.9	1.6
Minor collector street	0.6	1.2
Local street	0.4	0.9
Sidewalks/bikeways	0.2	1.0

- (e) *Appeal.* Decisions by the ~~zoning administrator, planning officer or the planning commission, or both,~~ as to street features as provided by this section may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.

(Ord. of 10-12-2007, § 5.7; Ord. of 10-12-2007(2), § 1)

### **Sec. 135-107. Utilities.**

- (a) *Water supply and sanitary sewer.*

(1) The water system and sanitary sewer design, materials and construction methods shall be approved by the city. ~~Where a public governmental water supply and/or sanitary sewer system is available within the distance specified by the regulations of the state department of natural resources, developments shall connect to such systems. Extensions shall be made at the developer's expense.~~

~~(2) In all cases where the developer may and intends to install an individual water supply system and/or individual sewage disposal system, the developer shall present adequate justification as to why they shall not provide a connection to the existing public governmental water and/or sanitary sewer system. The water supply and sewer system strategy shall be determined by the planning commission on a case-by-case basis taking into consideration the following factors:~~

- ~~a. Developer costs of installing individual water supply system and/or individual sewage disposal system relative to costs of connecting to existing public system;~~
- ~~b. Groundwater availability, quality, and pollution susceptibility;~~
- ~~c. The extent to which additional costs imposed upon the developer for a required connection to existing public system is necessary to promote the health, safety, or general welfare of the general public.~~

~~(3) When a water main is to be located in a street right-of-way and it will be necessary to cut into the street surface to serve the abutting lots, a connection shall be stubbed out to the property line to serve each lot before the street base is applied.~~

~~(4) The decision by the planning commission as to the water supply and sewer system strategy may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter.~~

- (b) *Electrical, telephone, and cable service.* All electrical, telephone, and cable service to subdivisions developed after the adoption of the ordinance from which this chapter is derived shall be required to be placed underground. All electrical, telephone, and cable service shall be installed meeting any construction specifications of the city relative to said utilities.

(Ord. of 10-12-2007, § 5.8; Ord. of 10-12-2007(2), § 1)

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**Sec. 135-108. Surety in lieu of completion of improvements.**

- (a) *Purpose.* In lieu of the completion of the required improvements necessary for final plat approval, the city may accept security in an amount and form satisfactory to ~~him~~<sup>it</sup>, providing for the actual construction and installation of the improvements. A separate security in an amount and form satisfactory to city will be required for the actual construction and installation of infrastructure improvements that ~~they~~<sup>it</sup> regulates.
- (b) *Form of security.* The developer shall provide adequate and acceptable security from a bank or other reputable institution, which certifies the following:
  - (1) That the creditor does guarantee funds in an amount equal to 110 percent of the cost of completing all required improvements, as estimated by the developer and approved by the city as appropriate.
  - (2) That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall immediately pay to the city, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the applicable letter or up to the principal amount of the bond.
  - (3) That the security may not be withdrawn, or reduced in amount, until released by the city.
- (c) *Time limits.* Prior to the granting of final plat approval, the developer and the city, shall agree upon a deadline for the completion of all required improvements. Such deadline per phase shall not exceed one year from the date of final approval.
- (d) *Release of security.* When the required improvements have been completed by the developer to the satisfaction of the city, as applicable, then each entity shall release the security.

(Ord. of 10-12-2007, § 5.9)

**Sec. 135-109. Improvement maintenance security.**

- (a) *Maintenance required.* The developer shall be required to maintain all public improvements in a development for a period of one year. The one year maintenance period shall commence with the date of the city accepting the deed or, if secured by a surety for completion of improvements, as provided for in section 135-108(b), then the one-year period shall be measured from the date the security is released.
- (b) *Maintenance security; form and amount.* The developer shall post with the clerk of the city an acceptable form of security payable to the city in an amount equal to ten percent of the total cost of the public improvements. The purpose of the security is to ensure faithful maintenance of said installations and improvements by the developer.
- (c) *Call for security.* If, upon being notified by the city of failure of required installations or improvements, the subdivider does not correct the deficiency or commence work within ten days of notice, it shall be deemed to be a failure on the posted security, and the city shall have the right to make the necessary repairs, either by public work or by private contract, and the surety, cash deposit and/or escrow account aforesaid shall be liable for the full amount of the cost of said repairs. The ten percent security does not ~~indemnify~~<sup>relieve</sup> the developer from those costs exceeding the ten percent security during the one-year maintenance period.
- (d) *Release of security.* At the end of the one-year period of time, the developer may formally petition the mayor and council to release the maintenance security. If the condition of the improvements are acceptable to the city, at that time, dedication will be accepted and the maintenance security will be released.

(Ord. of 10-12-2007, § 5.10)

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Secs. 135-110—135-131. Reserved.

## **ARTICLE V. CONSERVATION DESIGN SUBDIVISIONS**

### **Sec. 135-132. Purpose.**

- (a) It is the purpose of this article to provide flexibility in ensuring preservation of open space within a master-planned residential development. A conservation subdivision design preserves open space while maintaining the prorated density of residential units for the overall site area. Neutral density is achieved by allowing smaller individually-owned residential lots in neighborhoods that are surrounded by aesthetically and ecologically important areas. The goal of the design process is to identify and set aside conservation open space areas prior to the delineation of transportation and residential pod layouts. Open space areas may include wetlands, river buffer zones, woodlands, playing fields, steep slopes, and meadows, depending on the resources of the land.
- (b) The intent of the conservation design subdivision regulations is to:
- (1) Preserve significant areas of land for ecological, recreational, and agricultural purposes in perpetuity;
  - (2) Encourage more efficient development of land consistent with public health, safety, and general welfare;
  - (3) Afford greater flexibility of design and placement of buildings and structures;
  - (4) Preserve and protect exceptional terrain, natural beauty, or sites of historic interest from inconsequential placement of homes, roadways, utilities and appurtenances;
  - (5) Preserve all the streams and tributaries in the city as natural resources;
  - (6) Minimize flooding, erosion, and water pollution, and protect the quality and quantity of drinking water;
  - (7) Preserve wetlands, aquifers, topographical or soil features, wildlife habitat; and other features having conservation values, including views, vistas, and indigenous vegetation and wildlife; and
  - (8) Promote a less sprawling form of development.

(Ord. of 10-12-2007, § 6.1)

### **Sec. 135-133. Procedure.**

Conservation design subdivisions are allowed as a permitted right in accordance with the requirements set forth in this article. Also, conservation design subdivisions are allowed as an option in all residential zoning districts, except R-3, subject to modification of the standing residential zoning requirements of that zone district and the approval of site plans/plats complying with the intent of conservation design subdivisions and the platting requirements.

(Ord. of 10-12-2007, § 6.2)

### **Sec. 135-134. Housing density determination.**

- (a) The number of applicable lots or dwelling units created shall be density neutral. Density neutral is defined as maintaining the number of lots or dwelling units so as not to exceed the number that can be created with

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the conventional minimum area and width as established in this chapter and chapter 140, pertaining to zoning.

- (b) Number of lots. The maximum number of lots in the conservation design subdivision shall be determined by either of the following two methods, at the discretion of the applicant:
- (1) *Calculation.* The maximum number of lots or dwelling units, as applicable, is determined by dividing the area of the tract of land by the minimum lot size as determined by the ~~county health department (if individual sewage disposal systems are needed)~~ or, if sewer is available, by the minimum lot size allowed in the residential zone district where such subdivision is proposed. In making this calculation, the following shall not be included in the total area of the parcel:
    - a. Slopes 45 percent or greater with at least 5,000 square feet of contiguous area.
    - b. The 100-year floodplain.
    - c. Bodies of open water with over 5,000 square feet of contiguous area.
    - d. Wetlands that meet the definition of the U.S. Army Corps of Engineers pursuant to the Clean Water Act.
  - (2) *Yield plan* means the maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of functional lots possible. The plan or plat does not have to meet formal requirements for a site design plan or plat, but the design must be capable of being constructed given site features and all applicable regulations for streets (i.e., grade), etc.

(Ord. of 10-12-2007, § 6.3)

### **Sec. 135-135. Open space.**

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Open space* means the portion of the conservation subdivision that is set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument (see subsections (f) and (g) of this section).

- (b) *Standards to determine open space.*
- (1) The minimum restricted open space shall comprise at least 40 percent of the gross tract area.
  - (2) The following are considered primary conservation areas and are required for inclusion within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
    - a. The 100-year floodplain;
    - b. Riparian zones at least ~~75~~50 feet wide, along all perennial and intermittent streams;
    - c. Slopes 45 percent or greater with at least 5,000 square feet of contiguous area;
    - d. Wetlands that meet the definition used by the U.S. Army Corps of Engineers pursuant to the Clean Water Act;
    - e. Populations of endangered or threatened species, or habitat for such species; and
    - f. Archaeological sites, cemeteries and burial grounds.

- 
- (3) The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible:
- a. Important historic sites;
  - b. Existing healthy, native forests with a contiguous area of at least one acre;
  - c. Individual existing healthy trees greater than eight inches caliper, as measured five feet high from ground level on the bole of the tree (diameter breast height);
  - d. Other significant natural features and scenic view sheds such as ridgelines, peaks and rock outcroppings, particularly those that can be seen from public roads;
  - e. Prime agricultural lands with at least five acres of contiguous area; and
  - f. Existing trails that connect the tract to neighboring areas.
- (4) Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space, but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.
- (5) At least 25 percent of the open space shall consist of land that is suitable for building.
- (6) At least 75 percent of the open space shall be in a contiguous tract. The open space shall adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.
- (7) The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe, convenient access to the open space.
- (c) *Permitted uses of open space.* Uses of open space may include the following:
- (1) Conservation of natural, archeological or historical resources;
  - (2) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
  - (3) Walking or bicycle trails, provided they are constructed of porous paving materials;
  - (4) Passive recreation areas, such as open fields;
  - (5) Active recreation areas, provided that they are limited to no more than ten percent of the total open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space;
  - (6) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas;
  - (7) Landscaped stormwater management facilities, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses. Such facilities shall be located outside of primary conservation areas;
  - (8) Easements for drainage, access, and underground utility lines; or
  - (9) Other conservation-oriented uses compatible with the purposes of this chapter.
- (d) *Prohibited uses of open space.* Prohibited uses of open space include the following:
- (1) Golf courses;

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- (2) Roads, parking lots and impervious surfaces, except as specifically authorized in this article;
  - (3) Agricultural and forestry activities not conducted according to accepted best management practices;
  - (4) Impoundments; or
  - (5) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.
- (e) *Disposition and preservation of open space.* Open space land shall be preserved and maintained solely for the purposes specified in section 135-132. The method for effectuating such preservation and maintenance may be one or more of the following:
- (1) Establishment of a mandatory homeowners' association (HOA) to own and maintain the land in common for the open space purposes intended according to the following provisions (see suggestions for the HOA in appendix B-I):
    - a. Prior to final plat approval, developers desiring to build a conservation design subdivision will create and submit minimum requirements and structure for the HOA before the first lot is sold;
    - b. The HOA will maintain, pay taxes, and own the open space (in some communities the local government may agree to maintain the open space; see subsection (e)(2) of this section);
    - c. Membership in the HOA is mandatory for all homeowners, and dues are uniform; and
    - d. The HOA, by law, will stipulate that a third party, such as the local government, may enforce the maintenance of the open space through legally enforceable liens.
  - (2) Dedication of legally described and platted open space to the city or the county recreation department through the office of the county commissioners.
  - (3) Dedication of legally described and platted "open space" to a land trust established in compliance with the requirements of state law and shall be for conservation purposes. (In lieu of ownership, a binding conservation easement to the applicable land trust can also be declared across the conservation lands.)
- (f) *Open space ownership and maintenance.* The approval of such subdivision shall require the owner of open space land to execute, acknowledge, and file in the land records of the county, including documents and maps which effectively create a conservation easement or other legal conveyance approved by the city or the county or their designee. These records (see legal considerations in subsection (g) of this section and suggestions for open space in appendix B-I to this chapter):
- (1) Will be binding on all future owners of the open space land;
  - (2) May be enforced by the adjoining property owners, the city, the county, or a land trust by appropriate court action for equitable relief in the form of an injunction;
  - (3) Will ensure appropriate maintenance, by the homeowners' association or as otherwise herein provided, of open space land to the satisfaction of the city;
  - (4) Will provide that if maintenance, preservation, and/or use of the open space land no longer complies with the provisions of the easement, the city may take all necessary action to effect compliance and assess the costs against the owners in default; and
  - (5) Will provide that such easement may not be modified, altered, or amended.
- (g) *Legal instrument for permanent protection.*
- (1) The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
    - a. A permanent conservation easement in favor of either:



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1. A land trust or similar conservation-oriented nonprofit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
  2. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter.
- b. If the entity accepting the easement is not the city, then a third right of enforcement favoring the city shall be included in the easement.
  - c. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
  - d. An equivalent legal tool that provides permanent protection, if approved by the city.
- (2) The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions and permitted uses contained in subsections (c) and (d) of this section, as well as any further restrictions the applicant chooses to place on the use of the open space.
- (h) *Septic systems, wells, and stormwater management systems.* Easements will allow designated open space to be used for community sewer system drip lines or individual septic system secondary drain lines, wells, and stormwater management structures designed to promote on-site infiltration and/or treatment of runoff.
- (i) *Significant structures.* Structures of historic, architectural, or cultural significance existing prior to development of the subdivision may be retained within the open space.

(Ord. of 10-12-2007, § 6.4)

### **Sec. 135-136. Road specifications.**

- (a) Design standards for road construction in a conservation design subdivision shall be generally consistent with those set forth in the Blue Ridge Infrastructure Specifications; however, the flexible standards list in appendix B-II to this chapter shall also be available as options if the street system is to remain private. (Even as private streets, the requirements for street base and all stormwater drainage mechanisms shall comply with the requirements of the city, and public safety and emergency access issues remain valid.)
- (b) Private streets, constructed using the flexible standards addressed in appendix B-II to this chapter, are not eligible for future dedication to the city unless such roads are improved to comply with all specifications of the city.
- (c) Road locations.
  - (1) Roads should be located in a way that minimizes adverse impacts to primary and secondary conservation areas.
  - (2) To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15 percent shall be strongly discouraged.
  - (3) Permanent turnarounds employing a "T," "Y," or half-circle designs are available alternatives if deemed necessary to minimize effects on terrain.
  - (4) Alleys, otherwise available only as a secondary access to one- or two-family residential developments (section 135-105(9)d), are available for primary access in a conservation design subdivision due to terrain or overall design considerations.

(Ord. of 10-12-2007, § 6.5)

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### Sec. 135-137. Locations of building sites.

As long as the number of buildings meet the density neutral criterion set in section 135-134, it is intended that developers are given flexibility on building locations based on environmental factors and the types of developments the market will bear.

- (1) Building location considerations. The ~~municipal planning commission~~ zoning administrator shall evaluate the appropriateness of proposed building locations on conceptual preliminary site plans and plats to determine whether the proposed locations satisfy considerations listed in appendix B-III to this chapter.
- (2) Generally, a minimum distance of 100 feet shall separate building sites from primary conservation areas.
- (3) Building sites can be located within 50 feet of secondary conversation areas in order to take advantage of views without negatively impacting primary conservation areas.
- (4) Building "footprint" locations may not be changed more than 50 feet from preliminary plat to final plat without the approval of the ~~city planning officer~~ zoning administrator.
- (5) Decisions by the ~~municipal planning commission and/or the city planning officer~~ zoning administrator as to the locations of building sites may be appealed to the city council by the property owner and/or subdivider pursuant to the appeal procedure contained in article VI of this chapter. This appeal process is also applicable to all other decisions by the ~~municipal planning commission~~ zoning administrator regarding a proposed conservation design subdivision under this article and following the appeal procedure contained within article VI of this chapter.

(Ord. of 10-12-2007, § 6.6; Ord. of 10-12-2007(2), § 1)

### Secs. 135-138—135-157. Reserved.

## ARTICLE VI. APPEALS

### Sec. 135-158. Appeals procedure.

The city council shall hear and decide appeals where it is alleged by the property owner and/or subdivider that there is an error in any decision, determination, requirement, denial, or refusal by the ~~zoning administrator, planning commission or the planning officer, or both~~ zoning administrator, as to the administration or enforcement of any provision of this chapter. Such appeals shall be in accordance with the following:

- (1) An appeal to the city council may be taken by the property owner and/or subdivider affected by any decision, determination, or denial by the ~~zoning administrator, planning commission or the planning officer, or both~~ zoning administrator, with respect to this chapter. Such appeal shall be made within ten days following notification of the decision appealed from, by filing with the ~~planning officer~~ zoning administrator or city clerk, or both, a notice of appeal and specifying the grounds thereof. The ~~zoning administrator, planning officer or city clerk, or both~~ zoning administrator shall forthwith transmit to the city council all the papers constituting the record upon which the action appealed from was taken.
- (2) An appeal stays all legal proceedings in furtherance of the action appealed from unless the ~~zoning administrator, planning officer~~ zoning administrator certifies to the city council, after the notice of appeal should have been filed, that by reason of fact stated in the certificate a stay would, in his opinion, cause imminent peril to

life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of competent jurisdiction.

- (3) Upon receipt of the notice of appeal and the record thereof, the city council shall hold a hearing as to the matter appealed from, and said hearing shall be held within 60 days of the notice of appeal. The property owner and/or subdivider shall receive written notice of the date and time of the hearing before the city council. The property owner and/or subdivider shall have the right to have legal representation at the hearing and shall be entitled to present evidence on the appeal matters to the city council any time during the 60-day period or within the hearing.
- (4) The city council may reverse or affirm, wholly or partly, or may modify any decision, determination, requirement or denial by the ~~zoning administrator, planning commission and/or planning officer~~ that is the subject to the appeal, and to that end shall have the full and complete authority to make all determinations required by this chapter. It shall be the duty of the ~~planning officer, zoning administrator~~ to carry out the decisions of the city council. The decision of the city council shall be made subsequent to the public hearing and shall be confirmed in writing to the property owner and/or subdivider by letter from the city clerk. The city council shall have the right to make its decision on the same date as the appeal hearing. The action by the city council shall be the final action of the city as to matters arising under this chapter.

(Ord. of 10-12-2007, § 7.1; Ord. of 10-12-2007(2), § 1)

### **APPENDIX A. FEE SCHEDULE**

Major subdivision (includes preliminary and final plat)	\$100.00 + \$2.00 per lot
Minor subdivision (final plat only)	\$30.00 + \$1.00 per lot

(Note: The above fees include the amount necessary to record the plat in the Office of the Superior Court Clerk of Fannin County.)

(Ord. of 10-12-2007, app. A)

### **APPENDIX B-I. SUGGESTIONS FOR THE HOMEOWNERS' ASSOCIATION (HOA)**

- (a) At least one member of the HOA should receive training in wildlife habitat conservation, enhancement, and maintenance.
- (b) Each homeowner should be given site-specific information about indigenous habitat and diversity of species.
- (c) The HOA should develop a long-term conservation plan for maintenance of common areas. This plan should include examples of environmentally friendly landscaping techniques for homeowners.

(Ord. of 10-12-2007, app. B-I)

### **APPENDIX B-II. [SUGGESTIONS FOR OPEN SPACE AND STREETS]**

Suggestions for open space:

- (1) A minimum of ten percent and a maximum of 50 percent should be used for active recreation, such as playing fields or amenity centers (swim/tennis).

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- (2) Open space in one development should be linked to open space in adjoining developments to create the largest, continuous area of open space possible.

Suggestions for streets:

- (1) Minimize the number of cul-de-sac streets by providing more than one entrance to the development and interconnect streets as much as possible; the importance of environmental areas and the connections between them are important in conservation design subdivisions, and shall be considered in determining whether street interconnections are possible.
- (2) For cul-de-sac streets, minimize the amount of impervious surface by limiting the internal turning radius to 20 feet and the width of the paved lane to 16 feet. Use grass and vegetation for the inner circle of turn-arounds, rather than paving the entire area. In the neighborhood bylaws, declare the HOA responsible for the maintenance of the grassy area.
- (3) Vegetated swales are encouraged in a conservation subdivision plan as an alternative to curb and gutter. Omit curbs wherever possible. This allows runoff from roofs and pavements to pass immediately through grass swales or infiltration basins. Use plant material that will absorb rainwater and act as a natural filter for oil and pollution.
- (4) Utilize permeable pavement for street surfaces, driveways, sidewalks, and pedestrian and bike paths, except where steep slopes, swelling soils, and other site-specific constraints make it unfeasible. Examples of permeable pavement used in neighborhood developments include permeable crushed stone aggregate, open-celled pavers, porous asphalt, and porous concrete. Wooden decks, paving stones, and wood mulch are recommended for pedestrian areas.
- (5) Provide marked, paved paths for non-vehicular traffic within the development and connecting to neighboring residential and commercial areas.

(Ord. of 10-12-2007, app. B-II)

### **APPENDIX B-III. EVALUATION CRITERIA FOR BUILDING SITE LOCATIONS**

In evaluating the layout of lots and open space, the following criteria will be considered by the zoning administrator ~~Blue Ridge Municipal Planning Commission~~ as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this [subdivision] ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the zoning administrator ~~Blue Ridge Municipal Planning Commission~~ shall evaluate proposals to determine whether the proposed conceptual Preliminary Plan:

- (1) Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the city for essential infrastructure or active or passive recreation amenities).
- (2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. For example, locating house lots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or mature woodlands, which raise an equal or greater preservation concern, as described in #5 and #8 below. The second involves predominantly agricultural areas, where remnant trees groups provide the only natural areas for wildlife habitat.

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- (3) If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development is visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and wildflowers (specifications for which should be based upon a close examination of the distribution and frequency of those species found in a typical nearby roadside verge or hedgerow).
- (4) Maintains or creates an upland buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- (5) Designs around existing hedgerows and tree lines between fields or meadows, minimizing impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat, or those not degraded by invasive vines. Also, woodlands of any size on highly erodible soils with slopes greater than ten percent should be avoided, where possible. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal fields, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- (6) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roadways. (For example, in open agrarian landscapes, a deep "no-build, no-plant" buffer is recommended along the public roadway where those views or vistas are prominent or locally significant. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep "no-build, no-cut" buffer should be respected, to preserve existing vegetation.
- (7) Avoids sitting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- (8) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency and/or by the Georgia Department of Natural Resources, Georgia Protected Species Updated List.
- (9) Designs around and preserves sites of historic, archaeological or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, spring houses, barn foundations, cellar holes, earthworks, burial grounds, etc.
- (10) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stonewalls, hedgerows, etc.
- (11) Landscapes common areas (such as community greens), cul-de-sac islands, and both sides of new streets with native species shade trees and flowering shrubs with high wildlife conservation value. Planted trees along roadways shall be spaced at intervals so that the neighborhood will have a stately and traditional appearance when they grow and mature. Such trees shall generally be located between the sidewalk or footpath and the edge of the street, within a planting strip not less than five feet in width.
- (12) Provides active recreational areas in suitable locations offering convenient access by residents, and adequately screened from nearby house lots.
- (13) Includes a pedestrian circulation system designed to ensure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space

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system. All roadside footpaths should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).

- (14) Provides open space that is reasonably contiguous, and whose configuration is in accordance with the guidelines contained in the Design and Management Handbook for Preservation Areas, produced by the Natural Lands Trust. For example, fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of larger contiguous and integrated greenway systems, as per the policies in the 2025 Joint Comprehensive Plan for Fannin County and the Cities of Blue Ridge, McCaysville, and Morganton, as amended.

(Ord. of 10-12-2007, app. B-III)

zoning administrator ~~APPENDIX C. AMENDMENT RECORDS~~

<i>Date</i>	<i>Summary</i>
March 13, 2007	Definitions added; multiple amendments to Articles 4 and 5 Dealing with conservation design subdivisions; then added Article 6 specifically for Conservation Design Subdivisions, plus Appendices A, B I, B II, and B III; Appendix C was initiated only for recordkeeping.
October 12, 2007	To amend the various sections of the ordinance to provide a right of appeal by the property owner and/or subdivider from the decisions of the Blue Ridge Planning Commission to the city council of the city of Blue Ridge, Georgia; to further amend the ordinance to provide a new article 7 which shall set out the procedure as to an appeal of the decision of the planning commission to the city council of the city of Blue Ridge, Georgia

(Ord. of 10-12-2007, app. C)

EXHIBIT "B"

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**Sec. 140-1. Short title.**

This chapter shall be known and may be cited as "The Zoning Ordinance of the City of Blue Ridge, Georgia," and shall include the following articles, sections, maps, and, when necessary, a supporting appendix.

(Ord. of 9-11-2018, § 1.1)

**Sec. 140-2. Purpose and intent.**

The ordinance from which this chapter is derived is enacted pursuant to authority contained in Ga. Const. art. IX, § II, ¶ IV, as amended. The zoning regulations and districts herein are intended to help implement, in part, the land use policies and future land use initiatives envisioned by the local comprehensive plan, duly adopted by the mayor and city council, and amended or superseded from time to time.

- (1) The zoning regulations and districts herein are designed:
  - a. To lessen congestion in the streets;
  - b. To secure safety from fire, panic, and other dangers;
  - c. To promote health, morals, convenience, and the general welfare;
  - d. To provide adequate light and air;
  - e. To prevent overcrowding of the land;
  - f. To avoid undue concentration of the population;
  - g. To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
  - h. To promote community-wide aesthetics; and
  - i. To protect and conserve irreplaceable natural resources.
- (2) The regulations have also been made with reasonable consideration to the character of the district and its peculiar suitability for particular uses and with a view:
  - a. To promoting desirable living conditions;
  - b. To sustaining the stability of neighborhoods;
  - c. To protecting property against blight and depreciation;
  - d. To securing economy in governmental expenditures;
  - e. To conserving the value of buildings and land; and
  - f. To encouraging the most appropriate use of land and structures.
- (3) The requirements of these regulations are minimum permissible standards; and it is expected that developers and the municipal planning ~~commission-staff~~ will normally strive for quality development which will exceed these minimum requirements.

(Ord. of 9-11-2018, § 1.2)



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### Sec. 140-3. Rules.

In the construction of this chapter, the rules contained in this section shall be observed and applied, except when the context clearly indicates otherwise: Where requirements are set based on number of days, days are computed based on the calendar, except that when the final date falls on a weekend or holiday, the day due shall continue until the next regular working day.

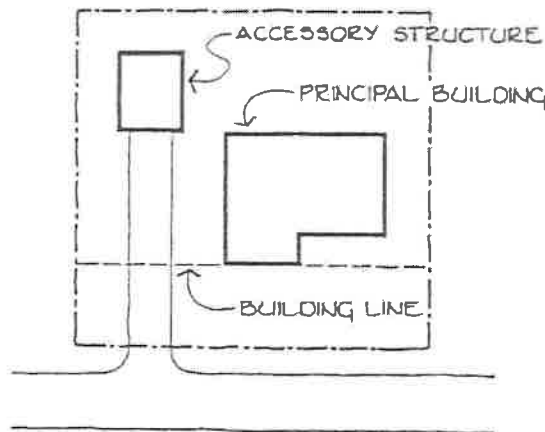
(Ord. of 9-11-2018, § 2.1)

### Sec. 140-4. Use of definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory structure* means a structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building. See Figure 1: Accessory Structure.

Figure 1: Accessory Structure



*Accessory use* means a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

*Adult business* means:

- (1) Any business which is conducted exclusively for the patronage of adults and to which minors are specifically excluded from patronage there, either by law or by the operators of such business;
- (2) Any business where employees or patrons expose specified anatomical areas, ~~as further defined in this section~~, or engage in specified sexual activities, as further defined in ~~this section~~ Chapter 4 – Adult Businesses in the City of Blue Ridge Code of Ordinances; or
- (3) Any other business or establishment which offers its patrons services, products, or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.

*Agricultural* means the art or science of cultivating the soil and activities incidental thereto; the growing of soil crops in the customary manner on open tracts of land; forestry; farming. The term "agricultural" includes incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.

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*Alley* means a public thoroughfare which affords only a secondary means of access to abutting property.

*Anatomical areas* means and includes any of the following:

- (1) ~~Less than complete and opaquely covered human genitals or pubic region; buttocks; or female breast below a point above the top of the areola; or~~
- (2) ~~Human male genitalia in a discernible turgid state, even if completely and opaquely covered.~~

*Animal hospital* means a building used for the treatment, housing or boarding of small domestic animals such as dogs, cats, rabbits and birds or fowl by a veterinarian.

*Antenna* means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves.

*Apartment buildings.* See *Dwelling, multifamily.*

*Assisted living* means a ~~building facility licensed by the Georgia Department of Community Health~~ in which, through its ownership or management, provides housing, food service, and one or more personal services for two or more ambulatory adults who are not related to the owner or administrator by blood or marriage and is licensed as a personal care home pursuant to O.C.G.A. § 31-7-12 ~~et seq.~~ Personal services include, but are not limited to, individual assistance with or supervision of self-administered medication and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting. The term "assisted living" does not include buildings which are devoted to independent living units which include kitchen facilities in which residents have the option of preparing and serving some or all of their own meals or boarding facilities which do not provide personal care.

*Assisted living home, congregate,* means a home for adults which offers care to 16 or more persons.

*Assisted living home, family,* means a home for adults in a family type residence, non-institutional in character, which offers care to two through six persons.

*Assisted living home, group,* means a home for adults in a residence or other type building, non-institutional in character, which offers care to seven through 15 persons.

*Basement* means a level within a building having at least one-half of its height on one side below grade.

*Bed and breakfast (home)* means any private owner-occupied building offering transient lodging accommodations and breakfast to not more than three guest rooms for compensation. ~~See section 140-342(j).~~

*Bed and breakfast (inn)* means a building, not necessarily owner-occupied, that offers transient lodging accommodations and breakfast for four or more guest rooms for compensation. ~~See section 140-342(k).~~

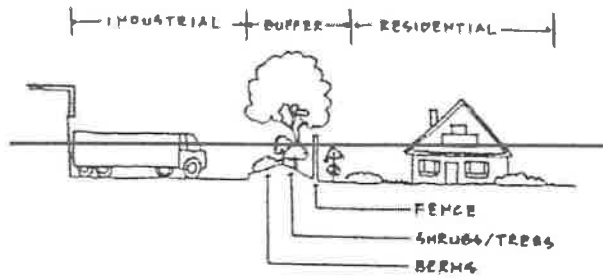
*Berm* means a mound of earth, or the act of pushing earth into a mound. ~~See Figure 2: Buffer.~~

*Billboard.* See *Sign, billboard.*

*Boardinghouse* means a dwelling other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons. Meals may or may not be provided, but there is one common kitchen facility and no meals are provided to persons not residing in the dwelling.

*Buffer* means a portion of lot set aside for open space and/or screening purposes, to shield or block noise, light glare, or visual or other nuisances; to block physical passage to dangerous areas; or to reduce air pollution, dust, dirt and litter. A buffer may contain a barrier, such as a berm, wall or fence, where such additional screening is necessary to achieve the desired level of buffering between various activities. ~~See Figure 2: Buffer.~~

Figure 2: Buffer



*Buffer, natural*, means an enhanced vegetated area with no or limited minor land disturbances, such as trail and picnic areas.

*Building* means any structure having a roof supported by columns or walls designed or built for the support, enclosure, shelter, or protection of persons, animals, or personal property of any kind.

*Building, height of*, means the highest point of a building when measured from the highest lowest point at which the foundation intersects the ground. Building height shall not apply to minor vertical projections of a parent building including chimneys, flagpoles, flues, spires, steeples, belfries, and cupolas.

*Building line* means a line parallel to the street right-of-way line a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located. See *Setback line*.

*Campground, public or private*, means land or premises used or occupied for compensation by campers traveling by passenger vehicles and utilizing tents, campers, travel trailers, or other recreational vehicles.

*Cemetery* means a place for the burial of the dead, including a mausoleum and columbarium.

*Church* means a building or group of buildings which are primarily intended for organized religious services, meetings, and associated accessory activities, such as child care, educational, family-orientated recreation/exercise facilities, and cemeteries, but not including thrift stores.

*Clinic* means a building or a portion of a building where patients are not lodged overnight, but are admitted for examination and treatment by one or more physicians or dentists practicing together.

*Cluster development* means a development design technique that concentrates building and density in specific areas on a site and allows the remaining land to be perpetually used for recreation, common open space, preservation of environmentally sensitive areas, and farmlands.

*Club, private*, means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose but not primarily for profit or to render a service which is customarily carried on as a business.

*Columbarium* means a vault with niches for urns containing the ashes of cremated bodies.

*Community center* means a building or facility used to provide recreational, social, educational and cultural activities for an area of a community, which is owned and operated by the management agency of that community, or the homeowner's association of that community. A community can be an incorporated area, a developed subdivision, or a planned development.

*Community water and sewer system* means a utility system serving a group of buildings, lots, or an area with the design and construction of such systems as approved by the state.

*Conditional use* means a use of land which is permitted in a particular zoning district only after review by the Blue Ridge Municipal Planning Commission and final action by the mayor and council as established by chapter

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125, pertaining to zoning procedures and standards, which before authorizing such use, shall find that the location and operation of the proposed use shall not be detrimental to adjoining land or land uses.

*Condominium.* See *Dwelling, single-family attached*.

*Conservation design subdivision* means a subdivision where open space is the central organizing element of the subdivision design, with all primary and all or some of the secondary conservation areas within the boundaries of the subdivisions identified and permanently protected. See articles III, IV and V of this chapter for applicability, and chapter 135, article V, for detailed criteria.

*Convenience store* means any retail establishment offering for sale prepackaged food products, beverages, household items, and other goods commonly associated with the same.

*Cultural facility* means a structure or portion of a structure used as art gallery, museum, historical display, legitimate theater, library, and other uses similar in character to those listed.

*Dance hall* means any place of business or leased nonresidential building where dancing is indulged in or permitted either by the owner or lessee if applicable of said premises on a regular basis or not, whether a fee or admission is charged or not, and where music therefore is supplied by any means whatsoever. Governmental facilities, educational facilities, and churches shall not be deemed dance halls.

*Day care center, group,* means a building or portion of a building wherein is provided care and supervision of persons away from their place of residence for less than 24 hours a day on a regular basis for compensation; serves seven to 18 persons and is licensed by the state; for children, the outdoor play area shall be enclosed by a fence of not less than four feet in height in the rear yard only.

*Day care facility* means a building or portion of a building wherein is provided care and supervision of persons away from their place of residence for less than 24 hours per day on a regular basis for compensation; serves 19 or more persons and is licensed by the state; for children, the outdoor play area shall be enclosed by a fence of not less than four feet in height in the rear yard only. For the purposes of this chapter, the term "child care" shall include, but not be limited to, the terms "day care," "nursery school," "early learning center," "pre-kindergarten," "private kindergarten," "play school," and "pre-school."

*Day care home, family,* means a customary home occupation which provides, for six or less persons who are not residents of the premises, care and supervision by a state-registered resident adult for less than 24 hours per day on a regular basis for compensation.

*Density* means the number of dwelling units permitted per acre of total land to be developed for residential use. As such, common parking and driveway areas are not excluded in computing density.

*District* means a delineated section of the city for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

*Drive-in* means any use providing the opportunity of selling, serving, or offering goods or services directly to customers waiting in vehicles or customers who return to their vehicles to consume or use the goods or services while on the premises of the principal use.

*Duplex.* See *Dwelling, multifamily*.

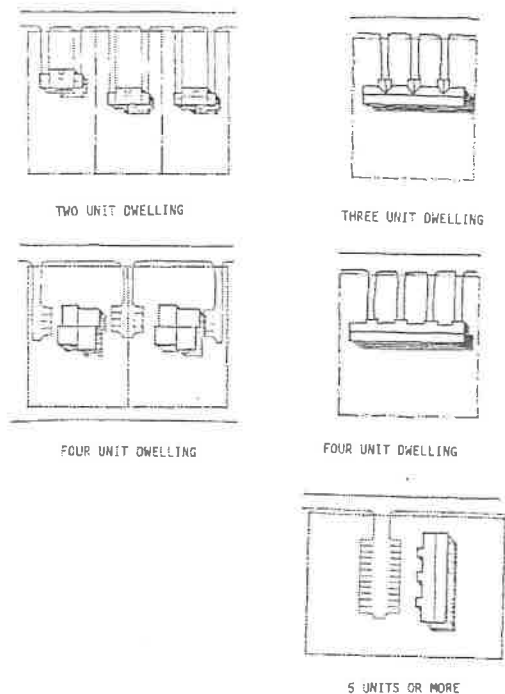
*Dwelling* means a building which is designed or used exclusively for residential purposes, including single-family, duplex (two dwelling units), triplex (three dwelling units), four-plex (four dwelling units) and multifamily residential buildings, roominghouses and boardinghouses, fraternities, sororities, dormitories, manufactured homes, and industrialized homes, but not including hotels, motels, bed and breakfast homes and inns, and extended stay hotel/motels.

*Dwelling, condominium*, means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

*Dwelling, loft*, means a dwelling unit, occupied by no more than four persons, and located only on the floor above a ground level commercial business.

*Dwelling, multifamily*, means a building in single ownership containing two or more dwelling units, including what is commonly known as an apartment building (two or more dwelling units), duplexes (two dwelling units), triplexes (three dwelling units), and four-plexes (four dwelling units). See Figure 32: Multifamily Dwellings.

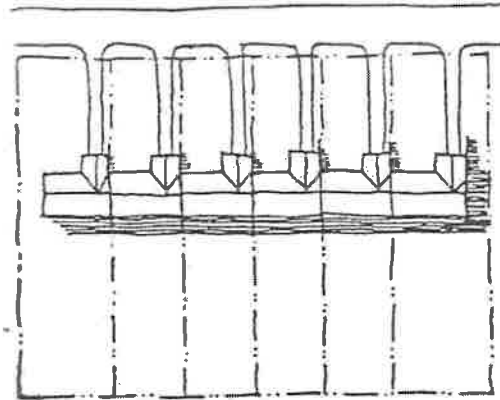
Figure 32: Multifamily Dwellings



*Dwelling, senior*, means a multifamily residence with 80 percent or more of the dwelling units occupied by residents, ages 62 and over or handicapped; or couples where either the husband or wife is 62 years of age or older; the term "senior dwelling" does not include convalescent or nursing facilities.

*Dwelling, single-family attached*, means a building containing two or more dwelling units, each of which is deeded with separate ownership and has primary ground floor access to the outside and which are attached to each other by party walls without openings. Units are located on either individually owned lots (townhouses), or a common area owned by all the owners (condominiums). See Figure 43: Single-Family Attached Dwelling.

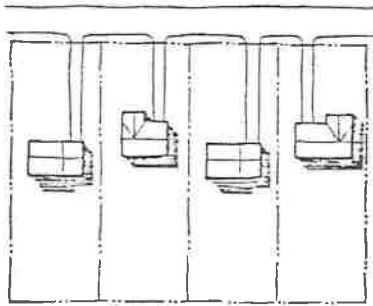
Figure 43: Single-Family Attached Dwelling



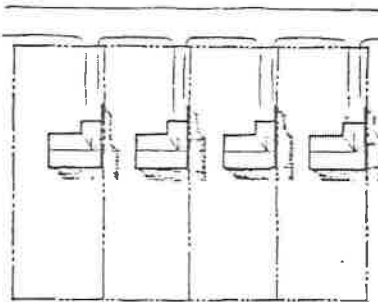
## TOWN HOUSE

*Dwelling, single-family detached*, means a detached residential building containing not more than one dwelling unit entirely surrounded by open space. A single-family detached dwelling includes site-built houses, manufactured homes and industrialized homes. Such dwelling structure is designed for the use of one family. All single-family detached dwellings shall meet the appearance standards provided in section 140-17. See Figure 54: Single-Family Detached Dwelling.

Figure 54: Single-Family Detached Dwelling



SINGLE FAMILY



ZERO-LOT LINE

*Dwelling, townhouse*, means one single-family dwelling unit connected in a row of at least two such units in which each unit has its own lot with a front and rear yard, and no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

*Dwelling unit* means one or more rooms used for residential purposes located within a building and forming a single habitable unit with complete, independent facilities which are used or intended to be used for living, sleeping, cooking, eating, and sanitation purposes. Units in hotels, motels, extended stay motel/hotels, or other structures designed for use by persons who are visitors/guests or temporary workers and not permanent residents of the city are not included.

*Dwelling, urban*, means a dwelling unit located within the Central Business District (CBD) and subject to the requirements of article X of this chapter, typically located on the second, third, and fourth floors of mixed-use development buildings, and with the occupancy load of said dwelling unit determined by the standards of the building code, fire safety code, and fire district code provisions. Notwithstanding the foregoing, an urban dwelling may be located on the floor at grade provided it occupies no more than 50 percent of the floor (at grade) on which it is located. The urban dwelling unit must be oriented to the rear of the floor at grade.

*Dwelling, zero-lot-line*, means a development of single-family detached residence in which one interior side yard may be lawfully reduced to zero on any lot for the purpose of creating larger, more usable, and more easily maintained yard spaces, particularly on smaller lots. See Figure 45: Single-Family Detached Dwellings.

*Easement* means the right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

*Facade* means the architectural details of the face of a building that are intended to be viewed by the public. The front facade of the building is the wall which contains the primary entrance to the building.

*Family* means an individual, or two or more persons related by blood, marriage, adoption, or guardianship, occupying a single dwelling unit; provided that domestic servants employed on the premises may be housed on the premises without being counted as a separate family. The term "family" does not include any organization or institutional group.

*Fence* means an artificially constructed barrier of any materials or combination of materials erected to enclose or screen areas of lands. A privacy fence is one that is solid and of a height designed to effectively limit visibility.

*Flag* means a fabric banner or pennant mounted to a building by a pole and attached to said pole by one side only.

*Floating zone.* See *Zone, floating.*

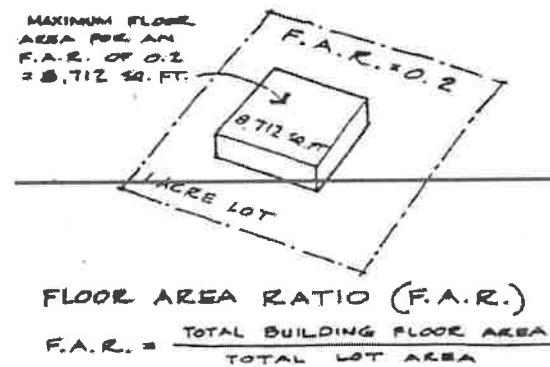
*Flood* means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

*Floodplain* means any land area susceptible to being inundated by water from any source.

*Floor area, gross, (GFA)* means the gross horizontal areas of all floors measured from the exterior faces of the exterior walls of a building. Areas within a building used for parking, basements, cellars, unenclosed porches or any space where floor to ceiling height is less than six feet shall not be included in the gross floor area.

*Floor area ratio* means the gross floor area of all buildings on a lot divided by the lot area. See Figure 6: Floor Area Ratio.

Figure 6: Floor Area Ratio



*Frontage, street,* means all of the abutting property on one side of a street, between two streets which intersect such street (crossing or terminating), or if the street is dead ended, then all of the property abutting on one side between a street which intersects such street and the dead end.

*Garage, private,* means an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the buildings to which it is accessory.



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*Garage, storage or parking*, means a building or portion thereof designed or used exclusively for storage of motor-driven vehicles.

*Grade* means the average level of the finished ground surface adjacent to the exterior walls of the building.

*Gross floor area*. See *Floor area, gross*.

*Group home* means a dwelling, which is licensed by the Georgia Department of Community Health, for full-time residence by non-related persons, who are mentally or physically challenged or elderly, with one or more surrogate parents that function as a singular housekeeping unit. Services include room, meal, and personal care, and all group homes shall be approved and licensed by the state; for children the outdoor play areas shall be enclosed by a fence of not less than four feet in height in the rear yard only.

*Halfway house* means a dwelling having accreditation from the Georgia Association of Recovery Residences (GARR), Department of Community Health (DCH), Commission on Accreditation of Rehabilitation Facilities (CARF), or Joint Commission Center for Transforming Healthcare (JCAHO) and that is used for temporary residence by non-related persons, who are recovering from alcohol abuse or other chemical-based substances, with one or more surrogate parents that provide services that include room, meals, supervision, rehabilitation, and counseling to enable residents to move back into society and live independently.

*Hazardous wastes* means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency (see, e.g., 40 C.F.R. § 261.3 et seq.) pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 CFR 261.3.

*Health club* means a facility designed for the major purpose of physical fitness or weight reducing which includes, but is not limited to, such equipment as weight resistance machines, whirlpools, saunas, showers, and lockers. The term "health club" shall not include municipal or privately owned recreation buildings.

*Home occupation, customary*, means an occupation customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes and operated in accordance with the provisions of these regulations. See section 140-18.

*Hotel* means a building offering overnight sleeping accommodations for travelers; ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. Such use has 80 percent of the rooms occupied by a different registered guest every five days, provides patrons with daily maid service and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the county health department and O.C.G.A. § 31-28-1 et seq., and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

*Hospice* means a building, or portion thereof, in which terminally ill persons live and receive scheduled medical, nursing, social, spiritual, volunteer, and bereavement care on a 24-hour basis; such hospice shall be licensed to operate in the state.

*Impervious surface* means a manmade structure or surface which prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

*Industrialized building or modular building* means any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Industrialized buildings are constructed and regulated in accordance with the Industrialized Buildings Act, Georgia Law 1982 pp. 1637—1643 (O.C.G.A. title 8, chapter 2, article 2, part 1).

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*Institution* means a public or semi-public building occupied by a governmental entity, nonprofit corporation or nonprofit establishment for public use.

*Junk vehicles* means any automobile, vehicle trailer or any kind or type or mechanical contrivance or part thereof, which is in an inoperative or junk condition by reason of its having been wrecked, discarded, or which does not have a valid license plate attached thereto (when the same is required by law). For the purpose of this chapter, a vehicle is inoperative if it is incapable of movement by its own power, it remains in place for a period of more than seven days, and is not within a carport/garage or detached accessory structure, or in a driveway.

*Junkyard* means any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof; the keeping, abandonment, sale or resale of junk including scrap metal, used paper, or other scrap materials, and equipment; storage, baling or otherwise dealing in bones, animal hides, used cloth or rags, used plumbing fixtures, appliances, furniture, and used brick, wood or other building materials. Such uses shall be considered junkyards whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to, other uses of the premises.

*Kenel* means any location where breeding, raising, boarding, caring for, and the keeping of more than three dogs or cats or other small animals or combination thereof (except litters of animals not more than six months of age) is carried on for commercial purposes.

*Kindergarten* means any premises or portion thereof used for educational work or parental care of children of less than the age required for enrollment in the public or private school system.

*Land disturbing activity* means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. The term "land disturbing activity" shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

*Landfill, inert waste*, means a disposal site accepting only wastes that will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to dirt, concrete, rock, bricks, yard trimmings, stumps, limbs, and leaves. The term "inert waste landfill" excludes industrial and demolition wastes.

*Landfill, sanitary*, means a disposal site where putrescible wastes are disposed of using sanitary landfilling techniques.

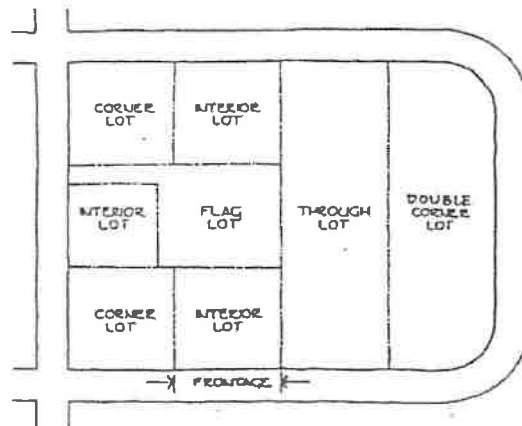
*Landfilling, sanitary*, means an engineered method of disposing of putrescible wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, placing an earth cover thereon, and such other measures as are necessary to protect human health and the environment.

*Leasable area, gross, (GLA)* means the total building floor area in square feet that a developer may lease.

~~*Loading space* means a space having a minimum dimension of 13.5 feet by 55 feet and a vertical clearance of at least 14.5 feet within the main building or on the same lot, providing for the standing, loading, or unloading of trucks.~~

*Lot* means a developed or undeveloped tract of land in one ownership legally transferable as a single unit of land; the term "lot" includes the yards and parking spaces required and has its principal frontage upon a street.

Figure 75: Lot



*Lot, corner,* means a lot abutting upon two or more streets at their intersection.

*Lot coverage* means the area of a lot occupied by the principal building and accessory buildings.

*Lot depth* means the mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

*Lot, double frontage.* See *Lot, through.*

*Lot, flag,* means lots or parcels that the city has approved where the panhandle is an access corridor to a lot located behind lots or parcels with normal street frontage.

*Lot line, front,* means the lot line separating a lot from a street right-of-way.

*Lot line, rear,* means the lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet minimum in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

*Lot line, side,* means any lot line other than a front or rear lot line.

*Lot of record* means a lot which is part of a subdivision, the plat of which has been recorded in the office of the clerk of the superior court of the county or a parcel of land described by metes and bounds, the plat or description of which has been recorded in said office prior to the adoption of the ordinance from which this chapter is derived. If a portion of a lot or parcel has been conveyed at the time of the adoption of the ordinance from which this chapter is derived, the remaining portion of said lot or parcel shall be considered a lot of record.

*Lot, through,* means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lots.

*Lot width* means the distance between the side lot lines measured at right angles to the lot depth at the established front building line.

*Lot width, curvilinear frontage.* For a lot having the majority of its frontage on a circular turnaround or on a curved street, the lot width shall be the distance between the side lines of the lot, measured as if tangent at the midpoint of the arc of the front property line and parallel to the chord of the arc, where the minimum required distance is obtained. The lot width line is synonymous with the front building line in this example.

*Mall* means a type of shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

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*Manufactured home* means a structure defined by and constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 USC 5401 et seq. A manufactured home is a single-family detached dwelling and its placement in a residential district must meet or exceed the appearance standards as provided in section 140-17. The definition at the date of adoption of the ordinance from which this chapter is derived is as follows:

A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that the term "manufactured home" shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title. The term "manufactured home" does not include the term "travel trailer."

*Manufactured home park* means a parcel of land which has been planned for or improved for the location of three or more manufactured homes for residential occupancy.

*Mausoleum* means a building where bodies are interred above ground in stacked vaults.

*Mini-warehouse*. See *Self-service storage facility*.

~~*Mixed-use development* means a development within the Central Business District (CBD) which involves a mixture of commercial and residential uses within the buildings and the development. CBD mixed-use developments are subject to the regulations provided within article X of this chapter.~~

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

*Mobile office* means a factory-fabricated structure designed to be transported on its own wheels, detachable wheels, flatbed or trailer and used or intended to be used or occupied for the transaction of business or the rendering of a professional service.

*Modular home*. See *Industrialized building*.

*Motel* means a permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for travelers and having a parking space near or adjacent to the entrance of the room. Such use has 80 percent of the rooms occupied by a different registered guest every five days, provides patrons with daily maid service, 24-hour desk/counter clerk service, and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with applicable requirements of the county health department and O.C.G.A. § 31-28-1 et seq., and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

*Motel/hotel, extended stay*. See *Residence inn*.

*Motor vehicle service station* means a building or lot for motor vehicle refueling using fixed dispensing equipment connected to pumps and storage tanks; where oils or accessories for the use of motor vehicles are dispersed, sold, or offered for sale at retail; and may include one or more service bays for vehicle washing, lubrication and minor replacement, or adjustment and repair services.

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*Multifamily dwelling.* See *Dwelling, multifamily.*

~~*Natural buffer.* See *Buffer, natural.*~~

*Neighborhood center.* See *Community center.*

*Nonconforming use* means the use of any building or land which was lawful at the time of passage of the ordinance from which this chapter is derived, or amendment thereto, but which use does not conform, after the passage of the ordinance from which this chapter is derived or amendment thereto, with the regulations of the district in which it is situated.

*Nuisance* means an interference with the enjoyment and use of property.

*Nursery school, play school, or kindergarten* includes daytime care or education for children; see applicable definitions under family day care home, group day care center, and day care facility regarding the number of children served.

*Nursing/convalescent home* means ~~a building~~ a facility that is licensed by the Georgia Department of Community Health in which, through its ownership or management, admits patients on medical referral only, provides continuous medical supervision and provides skilled nursing care and services. Nursing services shall be those services which may be rendered by a person licensed under the Nurse Practice Act (O.C.G.A. § 43-26-1 et seq.).

*Office, business,* means and includes offices for general business, insurance, real estate, appraisals, etc.

*Office, professional,* means and includes offices for professionals such as accountants, architects, attorneys, chiropractors, dentists, doctors, engineers/surveying, etc.

*Open space* means uncovered area open to the sky on the same lot with a building.

*Overlay zone.* See *Zone, overlay.*

~~*Parking lot* means an open, off-street, ground-level area, usually surfaced and improved, for the temporary storage of motor vehicles.~~

~~*Parking space* means a space, enclosed or unenclosed, having an area of not less than 200 square feet exclusive of accessways, permanently reserved for the temporary storage of one vehicle and having access to a street or alley.~~

*Pet (household pet)* means any animal owned or kept for pleasure rather than sale, which is a species customarily bred and raised to live in the habitat of humans and is dependent upon them for food and shelter, except that livestock and wild animals shall not be deemed to be pets.

*Personal care home.* See *Assisted living.*

*Photovoltaic (PV) system* means a solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them. Included in a PV system are the solar energy generation mechanisms (panels, etc.), inverters, batteries and battery systems that store electrical energy from the PV system for future use, meters, and electrical transmission wires and conduits that facilitate connections with users and/or the local power grid.

~~*Planning commission* means the Blue Ridge Municipal Planning Commission or equivalent as established by action of the mayor and council.~~

*Premises* means a lot, together with all buildings and structures existing thereon.

*Principal use* means the primary or predominant purpose for which a lot is occupied and/or used.

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*Putrescible wastes* means wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes include, but are not necessarily limited to, kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, and garbage.

*Recovery residence.* See *Halfway house*.

*Recreational facility, indoor*, means any commercial or noncommercial indoor facility such as bowling alley, shooting gallery, video game center, etc.

*Recreational facility, outdoor*, means any commercial or noncommercial outdoor facility such as a miniature golf course, a golf or baseball driving range, tennis courts, swimming pools, drive-in theaters, etc.

*Recreational vehicle* means a vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Recycling center* means a noncommercial facility in which recoverable resources, such as papers, glassware, plastics, and metal cans, or any non-hazardous recycling materials, are collected, stored, flattened, crushed, or bundled, by hand or machines, within a completely enclosed building.

*Recycling collection station* means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a commercial parking lot, or at other public/quasi-public areas, such as churches and schools.

*Repair service, motor vehicle general*, means a building, lot, or both in or upon which comprehensive motor vehicle repair services are performed, including painting, body and fender work, engine overhauling or other major repair; such facility commonly serves disabled or wrecked vehicles requiring occasional wrecker services and repair service time routinely exceeds more than 24 hours on site, but excluding a junkyard and/or motor vehicle wrecking business.

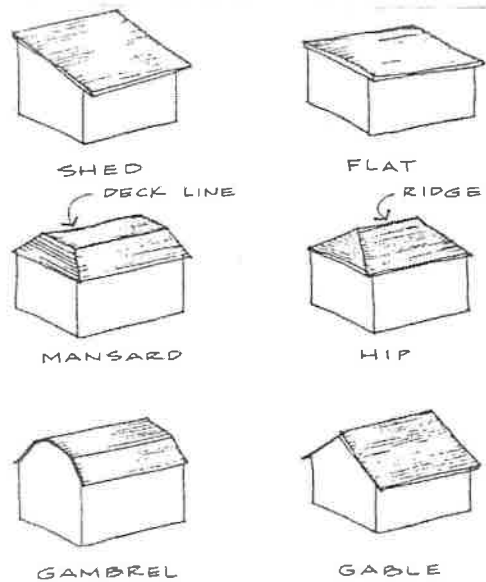
*Repair service, motor vehicle specialty*, means a building lot, or both in or upon which specialty repair services are provided quickly for operational motor vehicles; services may include, but are not limited to, removal and/or replacement of oils, fluids, filters, greases, minor parts like mufflers, shocks, and brakes; and may include tuning of engines; service repair time is routinely less than 24 hours on site.

*Residence inn or extended stay motel/hotel* means any building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes for guests/visitors to the city and contain kitchen facilities for food preparation, including, but not limited to, such facilities as refrigerators, stoves, and ovens.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

*Roof* means the outside top covering of a building. See Figure 6&: Roof.

Figure 86: Roof



*Roominghouse* means a dwelling, permanently occupied by the owner or operator, where sleeping accommodation is provided for three or more permanent occupants not of the same family by prearrangement for definite periods and compensation and which makes no provision for cooking in any of the occupied rooms.

*Salvage yard.* See *Junkyard*.

*Satellite dish antenna* means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. The term "satellite dish antenna" includes, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

*Schools, private, parochial and other elementary,* means any places for teaching children grades one to eight, inclusive, which are not a part of the state, but which teach the subjects commonly taught in the common elementary schools of the state.

*Schools, public,* means any place for teaching children grades kindergarten to 12 inclusive and no other, and a part of the public school system as defined by the laws of the state.

*Self-service storage facility* means a building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

*Service station.* See *Motor vehicle service station*.

*Setback line* means that line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the buildable area within which the principal structure must be erected or placed. See Figure 107: Yard.

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*Sewage treatment system, public or community*, means any sewage treatment system, including pipelines or conduits, pumping stations, force mains and all other construction, devices, and appliances appurtenant thereto, designed for treating or conducting sewage for treatment and disposal into lakes, streams, or other bodies of surface water.

*Sexual activities* means and includes any of the following:

- (1) — Actual or simulated sexual intercourse, oral copulation, anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
- (2) — Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) — Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) — Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (5) — Torture;
- (6) — Erotic or lewd touching, fondling or other sexual contact with an animal by a human being;
- (7) — Masochism, erotic or sexually oriented beating or the infliction of pain; or
- (8) — Human excretion, urination, menstruation, vaginal or anal irrigation.

*Shopping center* means a group of three or more commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

*Sign* means a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which directs attention to an object, idea, information, directions, product, place, activity, person, institution, organization or business. The term "sign" shall not be deemed to include official court, governmental notices, traffic warning or control devices or street signs.

*Sign, animated*, means any sign or part of a sign which changes its physical position by any movement or rotation, or which gives the visual impression of such movement or rotation.

*Sign, banner*, means a temporary sign intended to be hung either with or without frames, possessing letters, characters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this chapter.

*Sign, bench*, means a sign located on any part of the surface of a courtesy bench or seat, trash can, water fountain, and similar devices and structures offered for the public without charge.

*Sign, billboard*, means any freestanding sign used as an outdoor display for the purpose of making anything known where the total sign display area is larger than 140 square feet and not greater than 400 square feet and which is visible or is intended to be visible from a state or federal highway. Such signs shall also be known synonymously as outdoor advertising signs.

*Sign, canopy*, means a sign affixed to, imposed upon, or painted on any roof-like structure either permanently or temporarily extended over a sidewalk or walkway, which can be mounted flush or suspended. A

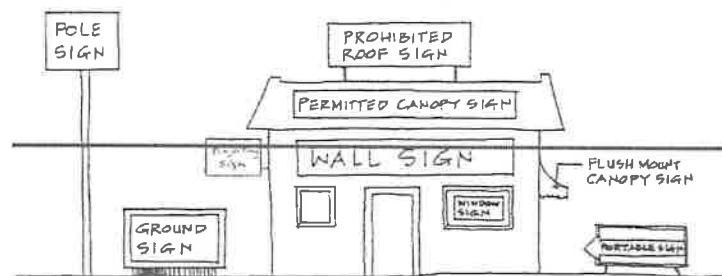


flush canopy sign is one that is mounted in such a manner that a continuous plane with the canopy is formed. A hanging canopy sign is one suspended from beneath the canopy. See Figure 9: Signs.

*Sign display area* means the area made available on the sign structure for the purpose of displaying a message.

- (1) The area shall be considered to include all lettering, wording, and accompanying design and symbols, together with the background, whether open or enclosed, with or without trim, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself;
- (2) For a sign painted or applied to a building, the area shall be considered to include all lettering, wording, and accompanying design and symbols, together with the background of a different color than the natural color of the building;
- (3) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, canopy, awning, wall, or window, the area shall be considered to be the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.

Figure 9: Signs



*Sign, double faced (back to back)* means a structure with two parallel, or nearly parallel, signs, back to back, and located not more than 24 inches from each other at the narrowest point.

*Sign, electronic message board*, means a freestanding sign that uses changing lights, regardless of type, to form written or graphic messages wherein the sequence of messages, graphics and the rate of change is electronically programmed and can be modified by electronic processes.

*Sign, freestanding*, means a permanently affixed sign which is wholly independent of any building for support.

*Ground sign* means a freestanding sign which has its bottom edge directly attached to the ground or no more than one foot above the ground and the maximum height of such sign is no greater than four feet. See Figure 9: Signs.

*Pole sign* means a freestanding sign with the display area more than four feet above the ground mounted on one or more poles or other supports.

*Sign, ground*. See *Sign, freestanding*.

*Sign, illuminated*, means any sign lighted by artificial lighting either by lights on or in the sign. The term "illuminated sign" also includes neon signs.

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*Sign, marquee,* means any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

*Sign, nonconforming,* means a sign which was lawfully erected but no longer complies with local or state regulations due to changes in local or state law or changes in rules and regulations since the date of the erection of the sign.

*Sign, pole.* See *Sign, freestanding.*

*Sign, portable,* means a sign that can be moved from place to place that is not permanently affixed to a building, structure or the ground, including, but not limited to:

- (1) Signs with wheels removed;
- (2) Signs with chassis or support constructed without wheels;
- (3) Signs designed to be transported by trailer or wheels;
- (4) A- or T-frame signs;
- (5) Menu, sandwich or sidewalk type signs;
- (6) Searchlight stands; and
- (7) Signs painted or attached on air-inflated hot-air, or gas-filled balloons.

*Sign, projecting,* means a sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building, but not including marquee or roof mounted signs.

*Sign, roof,* means a sign that is attached or mounted permanently on the roof of a building or which is wholly dependent upon a building for support and which may or may not project above the eave line of a building with a gambrel, gable or hip roof, the deck line of a building with a mansard roof, or projects above the building with a flat roof. See Figure 9: Signs.

*Sign, stacked,* means a structure of two vertically adjacent signs with their display areas orientated in the same direction.

*Sign, temporary,* means a sign or advertising display constructed of cloth, canvas, fabric, plywood, cardboard with waterproof finish, or other light material and designed or intended to be displayed for a short period of time.

*Sign, V-shaped,* means a structure of two signs in the shape of the letter "V" when viewed from above having their display areas oriented in opposite directions at an angle not greater than 90 degrees.

*Sign, wall,* means a sign painted or fastened to the wall which is an integral part of the building or structure, and which shall project not more than 12 inches from the wall of such building or structure. See Figure 9: Signs.

*Sign, window,* means a sign that is applied or attached permanently to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window. See Figure 9: Signs.

**Solar access easement** means a recorded easement, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar energy system.

**Solar array** means a number of photovoltaic modules or panels that generate solar electricity, assembled or connected to provide a single electrical output.

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*Solar array tracking* means a solar array that follows the path of the sun to optimize the amount of solar radiation received by the device. A solar tracking array racking may be ground mounted or building mounted.

*Solar energy* means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector or solar energy system.

*Solar energy facility (farm)* means the area of land devoted to solar energy system installation. A solar energy facility may include an interconnection with the local utility power grid for distribution to more than one property or consumer in the electricity market as a commercial venture. ~~A solar energy facility may be allowed in an M-1 district, subject to a conditional use approval.~~

*Solar energy system* means the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term "solar energy system" also applies to, but is not limited to, photovoltaic (solar electric) systems and thermal solar energy systems.

*Solar energy system, building-mounted,* means a solar energy system, which may include solar thermal panels, solar water heating system panels, and photovoltaic panels, which are mounted to a building or structure, to provide energy primarily for on-site use. Building-mounted solar panels may be flush mounted (i.e., flush to the surface of a building or a building roof or facade in a manner that the panel cannot be angled or raised), or as one or more modules fixed to frames which can be tilted or automatically adjusted at an optimum angle for sun exposures. The mounting system for building or roof solar systems shall be approved by the building inspector or other duly designated agent of the city. The building inspector or other duly designated agent of the city shall ~~have to~~ require, for permitting purposes, any architectural or engineered design as deemed necessary to confirm that the mounting system is structurally sound.

*Solar energy system, ground-mounted,* means a solar energy system that is directly installed on the ground surface by a properly designed support structure and which is not attached, or affixed, to any structure.

*Solar energy system, thermal,* means a solar energy system that directly heats water or other liquid using sunlight, including the use of heated liquid for such purposes as space heating and cooling, domestic hot water and heating pool water.

*Solid waste* means putrescible and non-putrescible wastes, except water-carried body waste, but shall include garbage, rubbish, ashes, street refuse, dead animals, sewage sludge, animal manures, industrial wastes, abandoned automobiles, dredging wastes, construction wastes, hazardous wastes and any other waste material in a solid or semi-solid state not otherwise defined in these regulations.

*Stealth* means any cables, wires, lines, antennas, or other equipment associated with transmission or reception of communications which are designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look like light poles, power poles, or trees.

*Stop-work order* means a notice from the city ~~building inspector or mayor and council planning staff~~ or their representative that requires all work on a development to cease except corrective measures to the violation stated in the notice.

*Story* means that portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling.

~~*Story, half,* means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.~~

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*Street* means a public or private thoroughfare which meets locally established design standards and which affords the principal means of access to abutting property however designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, or place.

*Major thoroughfare or arterial* means those streets which function to move high volumes of traffic between principal traffic generators (such as residential, commercial, and industrial sectors) at moderate speeds and with minimum conflict to movements.

*Minor or local street* means a street used primarily for access to the abutting properties and serving travel demands in the immediate area.

*Secondary or collector* means those primary streets which function to serve local traffic movements by collecting or distributing traffic from or to local, other collector, and/or arterial streets. Such a street includes the principal entrance and circulation streets of a subdivision and may also function to provide access to abutting properties in the same manner as a local street.

*Street line* means a dividing line between a lot, tract or parcel of land and the right-of-way of a contiguous street.

*Structure* means anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings, signs, billboards, back stops for tennis courts, fences, radio and water towers, grain and feed elevators, satellite dishes, etc.

*Structural alterations* means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

*Tower, alternative structures*, means manmade structures such as clock towers, bell towers, church steeples, water towers, light poles, manmade trees, warehouses, factories, commercial buildings, multifamily buildings, and publicly used structures which can, from the standpoint of structural integrity and engineering safety, be used for the mounting of antennas or serving a similar function as a telecommunications tower.

*Tower, guy*, means a tower supported, in whole or in part, by guy wires and ground anchors.

*Tower, lattice*, means a tower having open-framed supports on three or four sides and constructed without guy wires and ground anchors.

*Tower, monopole*, means a tower constructed of a single pole, self-supporting, without guy wires or ground anchors.

*Tower, telecommunications*, means a structure that is designed to support one or more antennas that are intended for transmitting or receiving radio, television, cellular, PCS, broadband, or telephone communications, excluding those used exclusively for dispatching hobby communications; the term "telecommunications tower" includes monopole, guyed, lattice, and alternative tower structures.

*Townhouse*. See *Dwelling, single-family attached*.

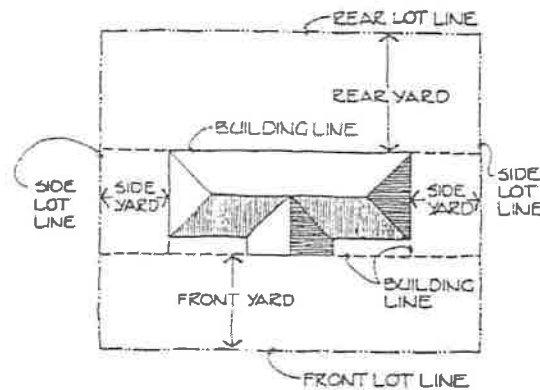
*Travel trailer*. See *Recreational vehicle*. means a motorized camper, converted bus, tent trailer or other similar vehicular or portable structure used or designed for temporary portable housing or occupancy while on vacation, recreation, or other trip and provided with sleeping accommodations.

*Travel trailer park* means any plot or tract or land on which two or more travel trailers are located or intended to be located, but not to include travel trailer sales or inventory areas.

*Yard* means an open space between a building or use and the adjoining lot lines, unoccupied and unobstructed by any structure or use from the ground upward, except as otherwise provided in this chapter. In

measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum distance between the lot line and the main building shall be used. See Figure 107: Yard.

Figure 107: Yard



*Yard, front,* means a yard extending across the front of a lot between the side lot lines. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, rear,* means a yard extending across the rear of a lot between the side lot lines. On all lots the rear yard shall be in the rear of the front yard.

*Yard, side,* means a yard between the main building and the side lot line and extending from the required front yard to the required rear yard.

*Zero lot line.* See *Dwelling, zero-lot-line.*

*Zone, floating,* means an unmapped zoning district where all the zone requirements are contained in this chapter and the zone is fixed on the map only when an application for development meets the zone requirements, and is approved.

*Zone, overlay,* means a mapped zone that imposes a set of requirements in addition to those of the underlying zoning district.

*Zoning* means the power of the city to provide within its territorial boundaries for the zoning of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which said zones or districts were established.

(Ord. of 4-10-2007, § 1; Ord. No. 2016-04-22(a), § 1(1), 4-22-2016; Ord. No. 2016-04-22(b), § 1, 4-22-2016; Ord. No. 2016-08-02, § 1, 8-2-2016; Ord. No. 2016-11-08(a), § 1, 11-8-2016; Ord. of 9-11-2018, § 2.2)

PART III - LAND USE CODE  
 Chapter 140 - ZONING  
 ARTICLE VI. R-3 HIGH-DENSITY RESIDENTIAL DISTRICT REGULATIONS

**ARTICLE VI. R-3 HIGH-DENSITY RESIDENTIAL DISTRICT REGULATIONS**

**Sec. 140-152. Purpose.**

The R-3 High-Density Residential District is designated and intended for higher density residential including townhomes, and multi-family (two attached dwelling units and up) and manufactured homes. As such, the provision of both public water and sewer is required to serve the uses allowed in this zoning district.

(Ord. of 9-11-2018, § 8.1)

**Sec. 140-153. Permitted uses.**

See the table of permissible and conditional uses in section 140-341 for permitted uses in the R-3 High-Density Residential District.

(Ord. of 9-11-2018, § 8.2)

**Sec. 140-154. Area, yard and height regulations.**

The following shall apply:

<i>Minimum*Lot Area</i>	<i>Minimum Lot Width</i>	<i>Minimum Front Setback</i>	<i>Minimum Side Yard</i>	<i>Minimum Rear Yard</i>	<i>Maximum Height (Feet)</i>	<i>Max. Lot Coverage</i>
Single-family: 7,500 sq. ft.	60'	20'	10'	20'	30'	40%
Duplex:** 10,000 sq. ft.	70'	20'	10'	20'	30'	40%
Townhouses 10,000 sq. ft. (2 units)	35' (per lot)***	20'	10'	20'	30'	40%
Multiple units:** 7,500 sq. ft. for 1st unit; 4,000 sq. ft. for each additional unit not to exceed 10 dwelling units per acre (includes condominiums)	80'	20'	10'	20'	30'	40%
Townhouses 7,500 sq. ft. for 1st unit; 4,000 sq. ft. for each additional unit not to	***	20'	10'	20'	30'	40%

exceed 10 dwelling units per acre						
Manufactured home parks: 7,500 sq. ft. per unit	50'	20'	10'	20'	30'	40%

\* All uses in this zoning district shall be served by public water and sewer.

\*\* Includes condominiums (see section 140-342(v)).

\*\*\* See section 140-342(w).

(Ord. of 9-11-2018, § 8.3)

**Sec. 140-155. Off-street parking.**

See section 14-508 for off-street parking regulations.

(Ord. of 9-11-2018, § 8.4)

**Sec. 140-156. Appearance standards.**

All single-family residential dwellings within the R-3 district shall meet the requirements of the appearance standards according to section 140-17.

(Ord. of 9-11-2018, § 8.5)

**Sec. 140-157. Density.**

All property zoned R-3 as of July 1, 2023 shall have an allowed density of up to ten units per acre. Properties rezoned to R-3 after July 1, 2023 shall have an allowed density of up to seven units per acre but may request a variance for an allowed density of up to ten units per acre as part of the rezoning application.

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**Secs. 140-1578—140-180. Reserved.**



COMMERCIAL DISTRICTS				PRINCIPAL USES	ADDIT. REQ'MT.	RESIDENTIAL DISTRICTS			
C-1	C-2	CBD	M-1			See Sections:	R-A	R-1	R-2
	X	C		Theatre, Performing Arts					
				<b>COMMERCIAL USES</b>					
	X		X	Agricultural Equipment Sales, Rental, Supply & Storage					
	X		X	Animal Hospital					
	X	X		Antique Shop					
	X	X		Apparel and Accessory Store					
	X	X		Appliance, Radio and TV Sales and Repair					
	X			Bait Shop					
	X	X		Bakery/Pastry Shop					
	X	X		Bank or Financial Institution, Full Service					
	X	X		Bank, Drive-in					
	X	X		Bar, Cocktail Lounge, Tavern	Chapter 6 of the City Code of Ordinances				
	X	X		Barber and Beauty Shop					
	X	X		Bed and Breakfast (Inn)	140-342(k)				X
	X			Bicycle and Sporting Goods Shops					
	X			Boat Sales, Services and Repair					
	X			Body Art Studios; Body Piercing; Tattoos					
	X	X		Books, Cards and Stationery Stores					
	X			Building materials stores including electrical, lumber, hardware, paint, glass, plumbing and air/heating materials (may include outside storage.)					
	X	X		Building materials stores including electrical, lumber, hardware, paint, glass, plumbing and air/heating materials (with no outside storage.)					
	X	X		Brewery	Chapter 6 of the City Code of Ordinances				

COMMERCIAL DISTRICTS				PRINCIPAL USES	ADDIT. REQ'MT.	RESIDENTIAL DISTRICTS			
C-1	C-2	CBD	M-1			See Sections:	R-A	R-1	R-2
	X	X		Brewpub	Chapter 6 of the City Code of Ordinances				
	X		X	Car/Truck/Vehicle Wash – Manual or Automatic					
	X			Caterer	Chapter 6 of the City Code of Ordinances				
	X	X		Coin-Operated Laundries					
				Clothing Stores (see Apparel and Accessory Store)					
	X	X		Convenience Stores without Fuel Pump Service					
	X			Convenience Stores with Fuel Pump Service, no vehicle repair	140-342(hh)				
	X			Department Stores, Warehouse Clubs and Supercenters					
	X			Discount Stores, Dollar Stores					
	X	X		Drug Stores, Pharmacies					
	X			Dry Cleaning and Laundry Services (except coin-operated; see Coin-Operated Laundries)	140-342(ii)				
	X		X	Equipment Rental, Retail Goods					
	X		X	Equipment Rental, Industrial and Construction					
	X			Event Center	Chapter 6 of the City Code of Ordinances				
	X	X		Farm Winery	Chapter 6 of the City Code of Ordinances	C			
	X	X		Fish, Meat Specialty Retail					
	C			Flea Market					
	X	X	X	Floor Covering Sales and Related Storage (indoor)					
	X	X		Florist					
	X			Funeral Homes					
	X	X		Furniture and Home Appliance Stores					

COMMERCIAL DISTRICTS				PRINCIPAL USES	ADDIT. REQ'MT.	RESIDENTIAL DISTRICTS			
C-1	C-2	CBD	M-1			See Sections:	R-A	R-1	R-2
				Veterinary Clinic (see Animal Hospital)					
				Winery, Farm (see Farm Winery)					
	X	X		Yoga Studio					
				<b>INDUSTRIAL USES</b>					
			X	Boat Storage					
			X	Bottled Gas, Storage & Distribution Center					
			X	Bottling Plant					
	X	X	X	Carpenter Shop, Woodworking					
			C	Cement, Lime Gypsum Manufacture					
			C	Concrete/Stone Cutting, Fabrication					
			X	Construction Contracting-Heavy, special trades and general building	140-342(II)				
			X	Milk Processing/Bottling					
			X	Dry Cleaning/Laundry, Industrial					
	X		X	Feed Mill, Seed Mill Production & Packing	140-342(mm)				
	X		X	Frozen Food, Cold Storage Locker					
			C	Hazardous Wastes Handling and Processing	140-342(f)				
			X	Ice, Manufacturing & Sales					
			X	Industry associated research and training facilities					
			E	Junk Yard, Salvage Yard					
	X		X	Laboratory Research Facilities					
			E	Landfill, Inert or Sanitary - Private/Public	140-342(g)				
	X		X	Machine Shop, Fabrication, Welding	140-342(o)				
	X		X	Machinery Sales, Service and Repair					
			X	Manufacturing Establishment - involving the mechanical or chemical conversion of raw materials into semi-finished or finished products.	140-342(nn)				

COMMERCIAL DISTRICTS				PRINCIPAL USES	ADDIT. REQ'MT.	RESIDENTIAL DISTRICTS			
C-1	C-2	CBD	M-1			See Sections:	R-A	R-1	R-2
			C	Manufacturing Establishment – involving acid processing, tanning, paper/pulp manufacturing, or other materials having characteristics considered volatile, flammable, explosive, odorous, or hazardous.	140-342(f)				
	X		X	Manufacturing Establishments involving only the assembly of pre-manufactured component parts.					
			C	Meat Packing & Processing, Slaughter Yards	140-342(p)				
	X	X	X	Mini-Warehouse / Self-Service Storage Facility	140-342(tt)				
			C	Paper or Paper-Pulp Manufacture	140-342(f)				
			X	Paving, Concrete and Asphalt Plant					
			X	Petroleum bulk stations					
	X	X	X	Photo-engraving	140-342(b)(2)				
			X	Printing, Publishing and Sampling	140-342(b)(2)				
			X	Recycling Center (w/processing facilities)					
	X		X	Recycling Collection Station					
			C	Refining of Petroleum Products					
	X		X	Septic Tank Sales and Service					
			C	Timber Harvesting, Logging, Sawyer Activities					
	X		X	Trades, Special- general building and heavy construction contracting	140-342(oo)				
	X		X	Trade shops and Heavy Repair-including sheet metal, upholstery, electrical, plumbing, carpentry, sign painting and other similar activities	140-342(pp)				
			X	Transfer Station, Solid Waste					
			X	Warehousing, Wholesale, Storage and Sales Office					
	X		X	Warehousing, Wholesale, Storage and Sales Office up to 10,000 sq.ft.					
			X	Wholesale trade and distribution establishments	14-342(nn)				

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COMMERCIAL DISTRICTS				PRINCIPAL USES	ADDIT. REQ'MT.	RESIDENTIAL DISTRICTS			
C-1	C-2	CBD	M-1			See Sections:	R-A	R-1	R-2
	X	X		Art Gallery					
	X	C		Athletic/Health Club and Facilities, Fitness Centers					
	X		X	Aquatic Center					
	X			Baseball batting cages, outdoor	140-342(b)(1)				
	X			Bowling Alley					
				Camp, Private (no RVs)	140-342(d)	C			
	C			Campgrounds, Commercial (tents, cabins and/or RVs)	140-342(d)	C			
	X			Campgrounds, Public (City-owned; tents, cabins and/or RVs)					
				Golf Course, with or without a Country Club	140-342(b)(1)	C	C	C	
	X			Dance Hall					
	X			Driving Range, Golf (not part of a Golf Course)	140-342(b)(1)	C			
	X	C		Game Room, Arcade					
	C			Go-Kart, Motor Bike Track <u>(electric only)</u>					
	X	X		Library					
	X	X		Miniature Golf Game	140-342(b)(1)				
	X	X		Museum					
	X	X		Parks and Recreational Facilities, Public (City-owned; see also Campgrounds, Public)		X	X	X	X
	X			Recreational Sports Fields or Courts (commercial)	140-342(b)(1)				
				Recreational Vehicle (RV) Park (see Campgrounds, Commercial)					
	X		X	Shooting Range, Indoor	140-342(gg)				
	X		X	Skating Rink, Roller/Ice					
	X	X		Taxidermy					
	X	C		Theatre, Movie					
	X			Theatre, Drive-In	140-342i				

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## **ARTICLE XIII. BUFFER, LANDSCAPING AND TREE PROTECTION REQUIREMENTS**

### **Sec. 140-373. Purpose.**

It is the purpose of this Article to provide landscape improvements and buffers which enhance a community's environmental and visual character and minimize harmful impacts between incompatible uses. It is also the intent of these regulations to encourage the protection and provision of trees through responsible land development practices. Vegetation can improve air and water quality, reduce soil erosion, reduce noise and glare, lessen visual pollution, establish a greater sense of privacy from visual or physical intrusion, and enhance property values, thus protecting the health, safety, and welfare of the community.

### **Sec. 140-374. Administration.**

The City Administrator or his/her designee is authorized to prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this chapter, and to implement and enforce the provisions of this chapter.

### **Sec. 140-375. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Berm* means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

*Buffer* means a combination of physical space and vertical elements, such as plants, berms, fences or walls, the primary purpose of which is to separate and screen incompatible land uses from each other. A buffer is a portion of a lot set aside for open space or screening for the purpose of shielding or blocking noise, light, glare, view, or other nuisances; blocking physical passage to dangerous areas; or to reduce air pollution, dust, dirt and litter where such screening is necessary to achieve the desired level of buffering between various activities.

*Critical root zone (CRZ)* means the minimum area beneath a tree which should be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk with a radius equal in feet to 1.3 times the number of inches of the trunk diameter measured 4.5 feet above the ground (dbh diameter breast height). Example: The CRZ radius of a 20-inch diameter tree is 26 feet.

*Deciduous* means a plant with foliage that is shed annually.

*Diameter breast height (DBH)* means the standard measure of tree size for those trees existing on a site that are at least four-inch caliper at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, then the trunk is measured at its most narrow point beneath the split.

*Evergreen* means a plant with foliage that persists and remains green year-round.

*Fence* means an artificially constructed barrier of any materials or combination of materials erected to enclose or screen areas of lands. A privacy fence is one that is solid and of a height designed to effectively limit visibility.

*Frontage* means the length of a property abutting a street, or the length of a building fronting a street.

*Ground cover* means living material planted in such a way as to form an 80 percent or more ground cover at the time of planting and a continuous cover over the ground that can be maintained at a height of not more than 18 inches.

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*Hedge* means an evenly spaced planting of shrubs that forms a compact, dense, visually opaque living barrier. Hedges inhibit passage or obscure views.

*Invasive species* mean non-native species that can cause environmental or economic harm, or harm to public health.

*Landscape plan* means a graphic and written document containing criteria, specifications and detailed plans to arrange and modify the effects of natural features. A landscape plan consists of a site plan showing the boundaries of the property and the location of proposed plant materials, in relation to surroundings and improvements, along with a planting schedule and any additional specifications required by the arborist.

*Landscaping* means any combination of living plants, such as trees, shrubs, vines, ground covers, flowers, or grass, and which may include natural features such as rock, stone, bark chips or shavings, and structure features, including, but not limited to, fountains, pools, outdoor artwork, screen walls, fences or benches.

*Natural area* means an area containing natural vegetation that will remain undisturbed when the property is fully developed.

*Perimeter landscaping* means the use of landscape materials adjacent to the outer boundary of a parcel, or the outer boundary of a lease line, or the outer boundary of the developed area of a parcel.

*Planning officer* means the agent of the city having the primary responsibilities for administering and enforcing this article.

*Retaining wall* means a pressure-bearing structure used to hold a cut or fill in place.

*Revegetation* means the replacement of trees and landscape plant materials.

*Screen* means a method of reducing the impact of noise and unsightly visual intrusions with plants, berms, fences, walls or any appropriate combination thereof, to provide a less offensive or more harmonious environment in relation to abutting properties.

*Shrub* means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground and generally obtaining a height less than eight feet; a shrub may be deciduous or evergreen.

*Street furniture* means any accessory installments intended to make sidewalks and streetscapes more livable. Such installments include benches, planters, and trash receptacles.

*Tree* means any self-supporting, woody perennial plant usually having a single trunk diameter of three inches or more that normally attains a mature height of a minimum of 15 feet.

*Woodland* means a tract of land or part thereof dominated by trees but usually also containing woody shrubs, grasses and other vegetation.

## **Sec. 140-376. Plans required.**

- (a) A landscaping plan prepared by a professional landscape architect shall be approved by the City Administrator or his/her designee prior to the issuance of a building permit, to demonstrate compliance with the provisions of this article, conditions of zoning, variance or conditional use approval, or other regulations of the City of Blue Ridge.
- (b) The landscape plan shall be to-scale, shall be based on an accurate boundary survey of the site or reasonable property description, shall be no greater than 20 by 24 inches, and shall include the following:
  - (1) Delineation of all minimum yard areas, buffers, and landscape areas as required by the City of Blue Ridge Land Use Code, conditions of zoning, or variance or conditional use approval.
  - (2) Location and general type of existing vegetation and trees;

- (3) Existing vegetation and trees to be saved;
- (4) All trees ten (10) inches in DBH or greater to be removed (see also Sec. 140-385);
- (5) If replacement trees are proposed to be planted, the replacement trees shall be shown and their spacing and diameter identified, to the extent needed to achieve the minimum requirements;
- (6) Methods and details for protecting existing vegetation and trees during construction;
- (7) Locations and labels for all proposed plants/trees and a plant/tree list or schedule showing the proposed and minimum required quantities;
- (8) Location and description of other landscape improvements, such as buffers, earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;
- (9) Locations of proposed on-site underground utility lines;
- (10) Locations of other on-site and off-site utility lines. Indicate areas where trees can't be planted because of interference with existing or proposed utilities on public rights-of-way or easements and existing utilities on adjoining properties; and

**(11) Limits of land disturbance, clearing, grading, and trenching. Sec. 140-377. Buffers required.**

(a) *Applicability.*

- (1) Buffers shall be required as specified in this article or for particular uses when specified in any other article of this Zoning Ordinance.
- (2) The Blue Ridge City Council may establish minimum buffer requirements in situations other than those given in this article as a condition of zoning or as part of conditional use or variance approval.

(b) *Location.*

- (1) Buffers shall be located on the outer perimeter of a lot or parcel along all lines adjoining dissimilar districts per Table 140-377, unless separated by an existing right-of-way. The buffer is normally calculated as parallel to the property line; however, design variations are allowed upon approval by the City Administrator or his/her designee.
  - (2) Buffers shall not be located on any portions of existing, dedicated, or reserved public or private street rights-of-way. Buffers shall not be used for parking. A buffer area may be used for vehicular access and utility easements (only if such uses are provided approximately perpendicular to the greater distance of the buffer area) and for drainage improvements required by the city.

(c) *Buffer requirements by zoning district.*

- (1) When two adjoining properties are in different zoning districts, the property within the more intensive district is required to provide the buffer type as indicated in Table 140-377.
- (2) When two adjoining vacant parcels are in different land use districts as indicated in Table 140-377, no buffer is required when the parcel in the less intensive district acquires a building permit.

Table 140-377

Buffer Types by Zoning District

	least intensive ...		<i>Zone District</i>					... most intensive	
	<i>R-A</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>C-1</i>	<i>C-2</i>	<i>CBD</i>	<i>M-1</i>	
<i>R-A</i>	None	None	I	I	II	II	I	III	



Zone District	R-1	None	None	None	I	I	II	I	III
	R-2	I	None	None	None	I	II	I	III
	R-3	I	I	None	None	None	II	I	III
	C-1	II	I	I	None	None	None	None	III
	C-2	II	II	II	II	None	None	None	II
	CBD	I	I	I	I	None	None	None	II
	M-1	III	III	III	III	III	II	II	None

- (3) *Type I buffer requirement.* The required buffer shall have not less than a 12-foot width and shall consist of plantings that meet the screening standards of section 140-378.
- (4) *Type II buffer requirement.* The required buffer shall have not less than a 15-foot width and shall consist of plantings that meet the screening standards of section 140-378.
- (5) *Type III buffer requirement.* The required buffer shall have not less than a 30-foot width and shall consist of plantings, plus a fence, wall (not otherwise a part of a structure), or berm, or any combination thereof that meet the screening standards of section 140-378.

### Sec. 140-378. Screening standards.

Screening is a method of visually shielding or obscuring one use from another by fence, walls, berms or densely planted vegetation. The following standards shall apply to required buffers.

- (a) *Design standards.*
  - (1) *Composition.* All required screening shall consist of shrubs and/or trees but may be supplemented with walls, fences, or berms as provided by this section 140-378.
  - (2) *Density.* A screen with year-round opacity shall be designed to obscure activities on a given lot from view from the normal level of a first story window on an abutting lot.
  - (4) *Natural preservation.* The natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary.
- (b) *Height requirements.* The screen shall be opaque from ground level to a height of at least six (6) feet.
  - (1) *Plantings.* Plantings shall consist of evergreen shrubs and/or trees that will, in normal growth, obtain a height of six (6) feet within three (3) years. Such plantings shall be one of the following:
    - a. Evergreen screening shrubs six (6) feet high, planted four (4) feet on-center.
    - b. Tall evergreen trees stagger-planted with branches touching the ground.
    - c. Combination of small shrubs planted 30 inches on-center, and small trees planted 30 feet on-center, and large trees planted 40 feet on-center.
  - (2) *Fences/walls.* Fences/walls, as a screen, shall be a minimum of six (6) feet in height and a maximum of eight (8) feet high constructed of wood or masonry materials. Chain link may be substituted as a material provided it affords a minimum of 90 percent opacity. Fences/walls shall be placed on the outer edge of the buffer nearest the least intensive land use.
  - (3) *Berms.* Earthen berms shall have a minimum height of six (6) feet, unless otherwise specified. Landscaping upon the buffer is desirable.

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**Sec. 140-379. Buffer maintenance.**

- (a) The responsibility for maintenance of a required buffer shall remain with the owner of the property. Maintenance is required to ensure the proper functioning of a buffer as a landscaped area which reduces or eliminates nuisance and/or conflict. The owner, occupant, tenant and respective agent shall be jointly and severally responsible for installing live and healthy plants. Any required plant which has died or been removed due to disease following the plantings shall be replaced.
- (b) Maintenance shall consist of mowing, removal of litter and dead plant materials, and necessary pruning. Natural watercourses within a buffer shall be maintained as free-flowing and free of debris, and shall not alter existing floodplains. Where trails are allowed within a buffer, they shall be maintained to provide for their safe use.
- (c) Failure to maintain. Failure to maintain such required fences and plants, to an acceptable standard may be deemed a violation of this chapter. In the event that the owner fails to maintain the buffer area according to the standards of this article, the city may, following 30 days' notice, demand that the maintenance deficiency be corrected and enter the buffer area to provide for maintenance. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the buffer, and the cost borne by the city shall be enforceable against the property as a judgement lien.

**Sec. 140-380. Frontage landscape strip.**

A minimum ten (10)-foot landscape strip as measured from the right-of-way of the street inward shall be provided along the full length of any street frontage of any new multifamily or nonresidential development not located in the CBD district, in accordance with the following requirements.

- (1) Frontage landscape strips shall contain no structures, parking areas, patios, stormwater detention facilities or other accessory uses except for the following:
  - a. Retaining walls or earthen berms constructed as part of an overall landscape design.
  - b. Pedestrian-oriented facilities such as sidewalks and bus stops.
  - c. Underground utilities.
  - d. Driveways required in order to access the property.
  - e. Signs otherwise permitted by the Zoning Ordinance.
- (2) One tree shall be provided within the frontage landscape strip for every 35 feet of length of street frontage, or portion thereof. Such trees may be deciduous or evergreen, but must be of a type that is suitable to local growing conditions and that will normally reach at least 12 inches at diameter breast height upon maturity. The tree must be selected from the "large trees" portion of the plant selection list under section 140-388. The expected mature height and canopy of the tree shall be appropriate to the area in which it is planted. The trees may be clustered for decorative effect following professional landscaping standards for spacing, location, and design. Trees, shrubs, or ground cover not contained within the list in section 140-388 may be approved by the City Administrator or his/her designee, provided that these trees, shrubs, and ground cover are not an invasive species.
- (3) The remaining portions of a frontage landscape strip shall be planted in a combination of shrubs from the plant selection list in section 140-388, and grass or ground cover from the plant selection list in section 140-388, except for those ground areas that are mulched or covered by permitted structures. Trees, shrubs, or ground cover not contained within the list in section 140-388 may be approved by the City Administrator or his/her designee, provided that these trees, shrubs, and ground cover are not an invasive species.

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- (4) Upon planting, new trees shall have a caliper of no less than two and one-half inches, and may be clustered for decorative effect following professional landscaping standards for spacing, location, and design.
  - (5) Plant materials in the frontage landscape strip are not to extend into the street right-of-way unless specifically allowed by the City Administrator or his/her designee.

**Sec. 140-381. Side yard landscape strip.**

A minimum ten-foot side yard landscape strip shall be provided along any side lot line of new nonresidential and commercial development not located in the CBD district. The landscape strip is to extend from the front principal building setback line to the rear of the property (unless a buffer is required along the side lot line).

- (1) Side yard landscape strips shall contain no structures, parking areas, patios, stormwater detention facilities or any other uses except for the following:
  - a. Retaining walls or earthen berms constructed as part of an overall landscape design.
  - b. Underground utilities.
  - c. Driveways required to access neighboring property.
- (2) All portions of a side yard landscape strip shall be planted in trees, shrubs, and grass or ground cover specified in the plant selection list in section 140-388. Species shall be selected with the guiding principle that the mature plant height and canopy are appropriate to the site. Trees, shrubs, or ground cover not contained within the list in section 140-388 may be approved by the planning officer, provided that these trees, shrubs, and ground cover are not an invasive species.

**Sec. 140-382. Parking lot trees.**

Deciduous shade trees shall be provided within any new parking lot designed or intended to accommodate ten cars or more in accordance with the requirements of this section.

- (1) One deciduous shade tree shall be provided within the parking lot for every ten spaces, or portion thereof. Each tree shall be located within the parking lot in reasonable proximity to the spaces for which the tree was required. Trees provided to meet the minimum requirements of any landscape strip or buffer may not be counted toward this requirement.
- (2) A landscaping island shall be located at the end of every parking bay between the last parking space and an adjacent travel aisle or driveway. The island shall be no less than eight feet wide for at least one-half the length of the adjacent parking space. The island shall be planted in trees, shrubs, grass, or ground cover.
- (3) Tree planting areas shall be no less than ten (10) feet in width and shall provide at least 400 square feet of planting area per tree. No tree shall be located less than 2½ feet from the back of the curb. All parking lot landscape islands shall be curbed with minimum six-inch-high vertical curbs.
- (4) Landscaping islands and tree planting areas shall be well-drained and contain suitable soil and natural irrigation characteristics from the planting materials they contain.

**Sec. 140-383. Expansions.**

For existing developments and parking facilities, expansions in gross floor area (GFA) or parking spaces will trigger landscaping requirements based on threshold expansion values.

- (1) Building expansions.

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- a. When a building expansion increases GFA at least ten percent but no more than 25 percent, then, at the option of the applicant, the entire property shall comply either with the frontage landscape strip requirements or the parking lot trees requirements.
  - b. When a building expansion increases GFA more than 25 percent, then the entire property shall comply with the street yard requirements, and any of the expanded parking lot portions shall comply with the parking lot landscaping requirements.
- (2) Parking lot expansions. With an expansion of at least ten spaces, the expanded portion of the parking lot shall comply with the landscaping requirements.
  - (3) Where both building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supersede.

**Sec. 140-384. Visibility and clearance.**

- (a) Landscaping shall not restrict the visibility of motorists or pedestrians (such as tall shrubs or low-lying branches of trees).
- (b) Trees must have a clear trunk at least six (6) feet above the finished grade to allow a safe clearance beneath the tree.
- (c) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not substantially obstruct the view of any street intersection and so that there shall be a clear space of 13 feet above street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic control device or sign or line of sight.

**Sec. 140-385. Tree protection.**

- (a) In the land development process, no more than 75 percent of the mature, healthy, existing trees ten (10) inches DBH or greater shall be cut, damaged, or destroyed. Provided, however, that additional trees may be removed upon approval by the City Administrator or designee if a minimum of three two and on half inch 2 1/2 -inch caliper tree or larger is planted and maintained for three years for each one tree removed in excess of ten (10) inches DBH.
- (b) See Sec. 140-376 for required information to be submitted with a landscape plan to ensure compliance with this section.
- (c) During excavation, filling, construction, or demolition operations, each tree or stand of trees to remain on the property shall be protected against damage to bark, roots, and low hanging branches with a fence enclosing the critical root zone. Fencing shall be either plastic construction area fencing, silt fencing, or high visibility surveyors' tape on one-inch by two-inch posts.

**Sec. 140-386. Public tree protection and care.**

- (a) Prohibited actions.

Except as hereinafter provided, it shall be unlawful for any person to:

- (1) Cut, prune, injure or remove any living tree on or in a public highway, right-of-way, neutral ground, public park, public place, triangle, sidewalk, or other public property;
- (2) Cut or disturb or interfere in any way with the roots of any tree on public property;
- (3) Place any wire, rope, sign, poster, barricade, decoration or other fixture on a tree or tree guard on public property;

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- (4) Injure, misuse or remove any device placed to protect any such tree;
  - (5) Pile building material or other material about any tree, plant or shrub in a street in any manner that will in any way injure such tree, plant or shrub;
  - (6) Pave or place gravel, soil or other such material within 12 feet of any tree on public property, unless approved by the City Administrator;
  - (7) Spray with any chemical insecticide or herbicide or other oils or whitewash any tree on public property;
  - (8) Dump, pour or spill any oil, herbicide, insecticide or other deleterious matter upon any tree or tree space in any street or within the critical root zone of any tree, or keep or maintain upon any street, any receptacle from which oil or herbicide, pesticide or other deleterious matter leaks or drips, or said material onto any parking or concrete gutter so as to injure any tree on any public property; or
  - (9) Use the rights-of-way, parks, sidewalks, or public places to dump grass clippings, tree trimmings, rocks or refuse of any nature.
- (b) Exceptions.
- (1) Public utility companies and government agencies conducting operations on public and utility right-of-ways and easements or on sites for electric power substations and similar facilities, which operations are for the purpose of assuring uninterrupted utility and governmental services and unobstructed passage on public streets;
  - (2) Any person or firm not associated with work identified under subsection (1) above may be authorized to prune, treat, or remove street or park trees or trees within a public right-of-way upon applying for and procuring a permit from the city. Before any permit shall be issued for any tree work on public property, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000.00 for bodily injury and \$100,000.00 for property damage indemnifying the city or any person injured or damage resulting from the pursuit of such endeavors as herein described.
  - (3) It may become necessary, from time to time, for emergency crews to prune or remove trees to provide for public safety or restore phone or electrical service. Such an action may be conducted by government, emergency or utility crews without permit so as to allow immediate action to prevent damage or correct a condition which may pose a hazard to life or property. The City Administrator shall be notified of any such action within 24 hours of the action being initiated, by the entity taking such action, for each instance of action.

#### **Sec 140-387. Indemnification.**

Nothing contained in this article shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any public property or right-of-way or public place within the city.

#### **Sec. 140-388. Plant selection.**

The following tables list ground cover, vines, shrubbery, and trees considered suitable for growing as native species in the Blue Ridge area.

Vines							
Taxa/Zone*	Tolerant to:						
	Poor Soils	Wet Sites	Dry Sites	Urban Stress	Salt	Shade	Evergreen or Deciduous
Anisostichus capreolatus/6b-8b; Cross Vine (Bignonia)	X	X	-	-	-	X	Semi-evergreen
Aristolochia durior/6b-8b; Dutchman's Pipe	X	-	X	-	-	-	Deciduous
Campsis radicans/6b-8b; Trumpet Vine	X	X	X	X	-	X	Deciduous
Clematis hybrida/6b-8b; Large-Flowered Clematis	-	X	-	-	-	X	Deciduous
Fatchedera lizei/8a-8b; Bush Ivy	X	-	X	-	-	X	Evergreen
Ficus pumila/8a-8b; Climbing Fig	X	-	X	-	X	X	Evergreen
Gelsemium sempervirens/6b-8b; Carolina Jessamine	X	X	X	-	-	X	Evergreen
Hydrangea anomala/6b-8b; Climbing Hydrangea	-	X	-	-	-	X	Deciduous
Lonicera sempervirens/6b-8b; Honeysuckle	X	X	X	-	-	X	Deciduous
Menispermum canadense/6b-8b; Common Moonseed	X	-	X	X	-	X	Deciduous
Parthenocissus quinquefolia/6b-8b; Virginia Creeper	X	X	X	X	X	X	Deciduous
Rosa banksiae/6b-8b; Banks Rose	X	-	-	-	-	-	Evergreen-deciduous
Smilax lanceolata/6b-8b; Smilax	X	-	-	-	X	X	Evergreen
* 6b-8b = entire state/Piedmont; 8a-8b = Coastal Plain							

Ground Covers							
Taxa/Zone	Tolerant to:						
	Poor Soils	Wet Sites	Dry Sites	Urban Stress	Salt	Shade	Evergreen or Deciduous
Aspidistra elatior/8a-8b; Cast-Iron Plant	X		X		X	X	Evergreen

Cyrtomium falcalum/8a-8b; Holly Fern		X		X		X	Evergreen
Helleborus orientalis/6b-8b; Lenten Rose	X	X				X	Evergreen
Hemerocallis spp./6b-8b; Daylily	X	X	X	X	X	X	Deciduous
Hosta spp./6b-8b; Plantain Lily		X		X		X	Deciduous
Hypericum calycinum/6b-8b; Aaronsbeard (St. Johnsort)	X		X	X			Evergreen-deciduous
Iberis sempervirens/6b-8b; Candytuft	X		X	X		X	Evergreen
Juniperus conferta/6b-8b; Shore Juniper	X		X	X	X		Evergreen
Liriope muscari/6b-8b; Lily Turf	X				X	X	Evergreen
Liriope spicata/6b-8b; Creeping Lily Turf	X			X	X	X	Evergreen
Ophiopogon jaburan/6b-8b; Snakesbeard	X		X		X	X	Evergreen
Ophiopogon japonicus/6b-8b; Mondo Grass	X			X		X	Evergreen
Pachysandra procumbens/6b-8b; Alleghany Pachysandra				X		X	Semi-evergreen
Pachysandra terminalis/6b-8b; Japanese Spurge	X			X		X	Evergreen
Paxistima canbyi/6b-8b; Rat-stripper	X						Evergreen
Phlox subulata/6b-8b; Thrift	X		X	X			Evergreen
Rosa wichuraiana/6b-8b; Memorial Rose	X			X			Semi-evergreen
Rosmarinus officinalis/6b-8b; Rosemary	X		X				Evergreen
Santolina chamaecyparissus/6b-8b; Lavender Cotton	X		X		X		Evergreen

Santolina virens/6b-8b; Green Santolina	X		X		X		Evergreen
Sarcocca hookerana humills/6b-8b; Small Himalyan Sarcocca			X			X	Evergreen
Sedum acre/6b-8b; Gold Moss Stonecrop	X		X	X		X	Evergreen
Sedum spectabile/6b-8b; Gold Moss Stonecrop	X		X	X		X	Evergreen

Shrubs 1--4 Feet							
Taxa/Zone	Tolerant to:						Evergreen or Deciduous
	Poor Soils	Wet Sites	Dry Sites	Urban Stress	Salt	Shade	
Abelia x grandiflora/6b-8b; Dwarf Abelia	X		X	X	X		Evergreen
Berberis candidula/6b-8b; Paleleaf Barberry	X		X	X		X	Evergreen
Berberis verruculosa/6b-8b; Warty Barberry	X			X		X	Evergreen
Ceanothus americanus/6b-8b; Wild Snowball (New Jersey Tea)	X		X			X	Deciduous
Danae racemosa/6b-8b; Alexandrian Laurel		X				X	Evergreen
Deutzia gracilis/6b-8b; Slender Deutzia	X		X	X			Deciduous
Euonymus japonicus 'Microphyllus'/6b-8b; Dwarf Japanese Euonymus		X			X	X	Evergreen
Hesperaloe parviflora/6b-8b; Red Yucca	X		X				Evergreen
Hydrangea arborescens 'Grandiflora'/6b-8b; Snowhill Hydrangea		X				X	Deciduous
Hypericum kalmianum/6b-8b; Kalm St. John's-Wort	X		X	X			Deciduous



Hypericum patulum/6b-8b; St. John's-Wort	X		X	X			Semi-evergreen
Hypericum prolificum/6b-8b; Shrubby St. John's-Wort	X		X	X			Deciduous
Ilex cornuta 'Rotunda'/6b-8b; Dwarf Chinese Holly	X				X	X	Evergreen
Ilex crenata radicans/6b-8b; Japanese Holly	X		X	X			Evergreen
Ilex vomitoria 'Nana'/6b-8b; Dwarf Yaupon			X		X	X	Evergreen
Jasminum nudiflorum/6b-8b	X		X	X			Deciduous
Juniperus davurica 'Parsoni'/6b-8b; Parsons Juniper	X		X	X			Evergreen
Lavandula officinalis/6b-8b; English Lavender			X				Evergreen
Leucothoe axillaris/6b-8b; Coastal Leucothoe		X				X	Evergreen
Leucothoe fontanesiana/6b-8b; Drooping Leucothoe		X				X	Evergreen
Ligustrum japonicum 'Rotundifolium'/6b-8b; Curlyleaf Ligustrum	X				X	X	Evergreen
Lonicera pileata/6b-8b; Privet Honeysuckle	X		X				Semi-evergreen
Potentilla fruticosa/6b-8b; Bush Cinquefoil	X			X			Deciduous
Ruscus aculeatus/6b-8b; Butcher's Broom	X		X	X		X	Evergreen
Skimmia reevesiana/6b-8b; Reeves Skimmia		X				X	Evergreen

Spiraea x bumalda; Bumald Spiraea	X		X	X			Deciduous
Spiraea nipponica 'Snowmound'/6b- 8b; Snowmound Nippon Spiraea	X		X	X			Deciduous
Xanthorhiza simplicissima/6b- 8b; Yellowroot	X	X	X	X		X	Semi-evergreen
Yucca filamentosa/6b-8b; Adams Needle Yucca	X		X	X	X		Evergreen

Shrubs 4—6 Feet							
Taxa/Zone	Tolerant to:						Evergreen or Deciduous
	Poor Soils	Wet Sites	Dry Sites	Urban Stress	Salt	Shade	
Abelia x grandiflora/6b-8b; Glossy Abelia	X		X	X	X		Evergreen
Cephalanthus occidentalis/6b-8b; Buttonbush		X					Deciduous
Chaenomeles speciosa/6b-8b; Flowering Quince	X		X				Deciduous
Clethra alnifolia/6b- 8b; Summersweet Clethra		X			X	X	Deciduous
Dirca palustris/6b- 8b; Leatherwood		X				X	Deciduous
Euonymus americanus/6b-8b; American Strawberry Bush	X		X			X	Deciduous
Fatsia japonica/8a- 8b; Japanese Fatsia	X	X			X	X	Evergreen
Hamamelis vernalis/6b-8b; Vernal Witch-Hazel	X	X	X	X			Deciduous
Hydrangea macrophylla/6b-8b; Bigleaf Hydrangea					X	X	Deciduous
Hydrangea quercifolia/6b-8b; Oakleaf Hydrangea	X	X				X	Deciduous
Ilex crenata 'Compacta'/6b-8b;				X		X	Evergreen

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Compacta Japanese Holly							
Jasminum floridum/8a-8b; Flowering Jasmine	X		X		X		Evergreen
Juniperus squamata 'Meyeri'/6b-8b; Singleseed Juniper	X		X	X	X		Evergreen
Mahonia aquifolium/6b-8b; Oregon Grape Holly	X			X		X	Evergreen
Opuntia spp./6b-8b; Prickly Pear	X		X		X		Evergreen
Pieris floribunda/6b-8b; Mountain Andromeda				X		X	Evergreen
Pieris japonica/6b-8b; Japanese Andromeda				X		X	Evergreen
Raphiolepis umbellata/8a-8b; Yedda Hawthorn	X		X	X	X		Evergreen
Rhododendron carolinianum/6b-8b; Carolina Rhododendron		X				X	Evergreen
Rhodotypos scandens/6b-8b; Black Jetbead	X		X	X		X	Deciduous
Rhus aromatica/6b-8b; Fragrant Sumac	X		X	X			Deciduous
Spiraea cantoniensis/6b-8b; Reeves Spirea	X			X			Deciduous
Spiraea thunbergii/6b-8b; Thunberg Spirea	X		X	X			Deciduous
Spiraea x vanhouttei/6b-8b; Vanhoutte Spirea	X		X	X			Deciduous
Taxus cuspidata/6b-8b; Japanese Yew	X			X		X	Evergreen
Viburnum acerifolium/6b-8b; Mapleleaf Viburnum			X	X		X	Deciduous
Viburnum carlesii/6b-8b;			X				Deciduous

Koreanspice Viburnum							
Viburnum suspensum/8a-8b; Sandankwa Viburnum	X				X	X	Evergreen
Yucca gloriosa/6b- 8b; Mound Lily Yucca	X		X	X			Evergreen

<i>Shrubs 6–12 Feet</i>							
<i>Taxa/Zone</i>	<i>Tolerant to:</i>						
	<i>Poor Soils</i>	<i>Wet Sites</i>	<i>Dry Sites</i>	<i>Urban Stress</i>	<i>Salt</i>	<i>Shade</i>	<i>Evergreen or Deciduous</i>
Aesculus parviflora/6b-8b; Bottlebrush Buckeye		X				X	Deciduous
Aronia arbutifolia/6b-8b; Red Chokeberry	X	X	X				Deciduous
Calycanthus floridus/6b-8b; Sweetshrub	X		X	X		X	Deciduous
Chimonanthus praecox/6b-8b; Wintersweet	X		X	X			Semi-evergreen
Chionanthus virginicus/6b-8b; Fringetree			X	X			Deciduous
Cleyera japonica/6b- 8b; Cleyera (Temstroemia)			X			X	Evergreen
Cornus amomum/6b- 8b; Silky Dogwood		X	X			X	Deciduous
Cornus racemosa/6b- 8b; Gray Dogwood		X	X			X	Deciduous
Cornus sericea/6b- 8b; Red-osier Dogwood	X	X		X		X	Deciduous
Cotinus obovatus/6b- 8b; American Smoketree	X		X	X			Deciduous
Cyrilla racemiflora/6b-8b; Leatherwood		X					Evergreen
Deutzia scabra/6b- 8b; Fuzzy Deutzia	X		X	X			Deciduous

Exochorda racemosa/6b-8b; Pearlbush	X		X	X			Deciduous
Feijoa sellowiana/8a-8b; Pineapple Guava			X		X		Semi-evergreen
Forsythia x intermedia/6b-8b; Border Forsythia	X		X	X	X		Deciduous
Hamamelis virginiana/6b-8b; Common Witch Hazel		X	X	X		X	Deciduous
Hibiscus syriacus/6b-8b; Rose of Sharon	X	X	X	X	X		Deciduous
Ilex glabra/6b-8b; Inkberry Holly		X			X		Evergreen
Viburnum x rhytidophylloides/6b-8b; Lantanaphyllum Viburnum	X			X			Semi-evergreen
Viburnum rhytidophyllum/6b-8b; Leatherleaf Viburnum		X				X	Evergreen
Vitex agnus-castus/6b-8b; Chaste Tree	X		X		X	X	Deciduous
Weigela florida/6b-8b; Weigela	X			X			Deciduous
Yucca aloifolia/8a-8b; Spanish Bayonet	X		X	X	X		Evergreen

Small Trees 15—40 Feet					
Taxa/Zone	Tolerant to:				
	Wet Sites	Dry Sites	Salt	Shade	Evergreen or Deciduous
Acer buergeranum/6b-8b; Trident Maple*	-	X	-	-	Deciduous
Acer campestre/6b-8b; Hedge Maple		X			Deciduous
Acer floridanum/6b-8b; Florida Maple				X	Deciduous
Acer griseum/6b-8b; Paperbark Maple					Deciduous
Acer palmatum/6b-8b; Japanese Maple*		X		X	Deciduous
Acer tataricum/6b-8b; Tatarian Maple		X			Deciduous

Amelanchier arborea/6b-8b; Downy Serviceberry					Deciduous
Amorpha fruticosa/6b-8b; Indigobush Amorpha		X			Deciduous
Asimina triloba/6b-8b; Common Pawpaw	X		X		Deciduous
Bumelia lanuginosa/6b-8b; Chittamwood		X		X	Deciduous
Carpinus caroliniana/6b-8b; American Hornbeam	X			X	Deciduous
Chionanthus retusus/6b-8b; Chinese Fringetree*		X		X	Deciduous
Chionanthus virginicus/6b-8b; White Fringetree or Grancy Gray-Beard*		X		X	Deciduous
Cornus florida/6b-8b; Flowering Dogwood*				X	Deciduous
Cornus mas/6b-8b; Comeliacherry Dogwood					Deciduous
Davidia involucrata/6b-8b; Dove Tree				X	Deciduous
Evodia daniellii/6b-8b; Korean Evodia		X			Deciduous
Halesia carolina/6b-8b; Carolina Silverbell	X	-	-	X	Deciduous
Halesia diptera var. magniflora/6b-8b; Two-winged Carolina Silverbell*				X	Deciduous
**Ilex cassine/6b-8b; Dahoon	X	-	X	-	Evergreen
Ilex decidua/6b-8b; Possum Haw	X	X	-	-	Deciduous
Ilex vomitoria/7-8; Yaupon Holly*		X		X	Evergreen
Ilex myrtifolia/6b-8b; Myrtle-leaved Holly	X		X		Evergreen
Ilex opaca cvs./6b-8b; American Holly	X		X	X	Evergreen
Ilex x attenuata/6b-8b; Savannah Holly**					Evergreen
Lagerstroemia indica/6b-8b; Crape Myrtle*	---	X	X	---	Deciduous
Maclura pomifera/6b-8b; Osage Orange	X--	X	X-	---	Deciduous
Magnolia grandiflora/7-8; Little Gem Magnolia*	X-	X	X	--	Evergreen

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Magnolia x soulangiana/6b-8b; Saucer Magnolia	X	X	--	--	Deciduous
Magnolia stellata/6b-8b; Star Magnolia*	-	-	--	--	Deciduous
Magnolia virginiana/6b-8b; Sweetbay Magnolia	X	--	---	X--	Semi-evergreen
Myrica cerifera/7-8; Southern Waxmyrtle*	X	X	X	X-	Evergreen
Osmanthus americanus/6b-8b; Devilwood or Wild Olive*		X			Evergreen
Ostrya virginiana/6b-8b; American Hophornbeam*		X		X	Deciduous
Parrotia persica/6b-8b; Persian Parrotia *	-	-	-	-	Deciduous
Pinus virginiana/ 6b-8b; Virginia Pine *	-	X	X	-	Evergreen
Photinia serratifolia/7-8; Chinese or Oriental Photinia*		X			Evergreen
Prunus campanulata cross with Prunus incisa/6b-8b; Okame Cherry				-	Deciduous
Prunus caroliniana/6b-8b; Cherry Laurel	-	X	X	-	Evergreen
Prunus mume/6b-8b; Japanese Apricot*					Deciduous
Prunus x yedoensis/6b-8b; Yoshino Cherry	-	-	-	-	Deciduous
Pterocarya fraxinifolia/6b-8b; Chinese Wingnut	X	X	-	--	Deciduous
Quercus myrsinifolia/6b-8b; Chinese Evergreen Oak	-	X	-	-	Evergreen
Rhus copallina/6b-8b; Flameleaf Sumac	-	X	-	-	Deciduous
Sabal palmetto/8; Cabbage Palm*	X	X	X	X	Evergreen
Vaccinium arboreum/7-8; Farkleberry		X		X	Deciduous
Vitex agnus-castus/7-8; Chastetree*		X			Deciduous

Large Trees 40+ Feet							
Taxa/Zone	Tolerant to:						
	Poor Soils	Wet Sites	Dry Sites	Urban Stress	Salt	Shade	Evergreen or Deciduous
Acer rubrum/6b-8b; Red Maple		X		X		X	Deciduous
Alnus glutinosa/6b-8b; European Alder		X	X	X			Deciduous
Betula nigra/6b-8b; River Birch	X	X		X			Deciduous
Castanea mollissima/6b-8b; Chinese Chestnut	X		X	X			Deciduous
Catalpa bignonioides/6b-8b; Southern catalpa	X		X	X	X		Deciduous
Celtis laevigata/6b-8b; Sugar Hackberry		X		X			Deciduous
Celtis occidentalis/6b-8b; Hackberry	X		X	X			Deciduous
Cladrastis kentukea/6b-8b; American Yellowwood	X			X			Deciduous
Cunninghamia lanceolata/6b-8b; Chinafir	X		X			X	Evergreen
Fraxinus americana/6b-8b; White Ash	X			X			Deciduous
Fraxinus pennsylvanica/6b-8; Green Ash	X	X	X	X			Deciduous
Ginkgo biloba (male)/6b-8b; Ginkgo	X		X	X			Deciduous
Gymnocladus dioicus/6b-8b; Kentucky Coffee	X		X	X			Deciduous
Juniperus virginiana/6b-8b; Eastern Red Cedar	X	X	X	X	X		Evergreen
Liquidambar styraciflua/6b-8b; Sweet Gum		X		X	X		Deciduous
Liriodendron tulipifera/6b-8b; Tulip Tree		X		X	X		Deciduous
Magnolia grandiflora/6b-8b; Southern Magnolia (Note: preferred for coastal areas; can be slightly invasive in other regions)		X		X	X	X	Evergreen

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Metasequoia glyptostroboides/6b-8b; Dawn Redwood	X	X	X	X	X	X	Deciduous Evergreen
Morus rubra/6b-8b; Red Mulberry	X		X	X			Deciduous
Nyssa sylvatica/6b-8b; Black Tupelo	X	X					Deciduous
Ostrya virginiana/6b-8b; American Hophornbeam	X		X	X			Deciduous
Quercus acutissima/6b-8b; Sawtooth Oak	X		X	X	X		Deciduous
Quercus alba/6b-8b; White Oak			X	X	X		Deciduous
Quercus bicolor/6b-8b; Swamp Oak	X	X		X			Deciduous
Quercus coccinea/6b-8b; Scarlet Oak	X			X			Deciduous
Quercus falcata/6b-8b; Southern Red Oak	X		X	X			Deciduous
Quercus imbricaria/6b-8b; Shingle Oak			X	X			Deciduous
Quercus laurifolia/6b-8b; Laurel Oak	X	X		X	X		Deciduous
Quercus lyrata/6b-8b; Overcup Oak	X	X	X				Deciduous
Quercus macrocarpa/6b-8b; Bur Oak	X		X	X			Deciduous
Quercus marilandica/6b-8b; Blackjack Oak	X		X	X			Deciduous
Quercus muehlenbergii/-6b; Chinquapin Oak	X		X	X			Deciduous
Quercus nigra/6b-8b; Water Oak	X	X	X	X	X		Deciduous
Quercus palustris/6b-8b; Pin Oak		X	X	X	X		Deciduous
Quercus phellos/6b-8b; Willow Oak		X		X	X		Deciduous
Quercus prinus/6b-8b; Chestnut Oak		X	X				Deciduous
Quercus robur/6b-8b; English Oak		X					Deciduous
Quercus rubra/6b-8b; Northern Red Oak	X		X	X			Deciduous
Quercus shumardii/6b-8b; Shumard Oak	X		X	X			Deciduous
Quercus stellata/6b-8b; Post Oak	X		X	X			Deciduous

Quercus velutina/6b-8b; Black Oak		X	X				Deciduous
Quercus virginiana/8a-8b; Live Oak	X	X	X	X	X	X	Evergreen
Sophora japonica/6b-8b; Japanese Pagodatree			X	X			Deciduous
Taxodium ascendens/6b-8b; Pond Cypress	X	X	X				Deciduous
Taxodium distichum/6b-8b; Bald Cypress	X	X	X	X			Deciduous
Tilia americana/6b-8b; American Linden			X	X			Deciduous
Tilia cordata/6b-8b; Littleleaf Linden				X			Deciduous
Ulmus parvifolia/6b-8b; Lacebark Elm	X		X	X			Deciduous
Zelkova serrata/6b-8b; Japanese Zelkova	X		X	X			Deciduous
Ziziphus jujuba/6b-8b; False Date	X		X				Deciduous

PART III - LAND USE CODE  
Chapter 140 - ZONING  
ARTICLE XIV. PLANNED UNIT DEVELOPMENT REGULATIONS

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***ARTICLE XIV. PLANNED UNIT DEVELOPMENT REGULATIONS***

**Sec. 140-400. Purpose.**

- (a) ~~The purpose of the Planned Unit Development (PUD) regulations is to permit and encourage coordinated developments. The size and scope of such developments may range from the minimum of ten acres to a complete neighborhood. Residential and commercial uses are permitted with public and recreational uses necessary to serve the development. The emphasis of the regulation is on the compatibility of overall design rather than individual minimum specifications. Innovation and ingenuity in design are encouraged.~~
- (b) ~~Planned unit developments (PUDs) shall be permitted in the R-A and R-2 zone districts and be designed, approved, developed, and used according to a site plan prepared according to the provisions required by this article. The minimum site area for a PUD that encourages a mix of residential uses and limited other uses is ten acres; a PUD that would propose to include commercial uses as part of the design requires a minimum of 20 acres.~~

~~(Ord. of 9-11-2018, § 15.1)~~

**Sec. 140-401. Procedures.**

~~(a) *Application.*~~

~~(1) The owner shall submit a proposed site plan to the building inspector's office which includes the following minimum items for consideration:~~

- ~~a. Owners' name, address, phone number, or email address;~~
- ~~b. North arrow; general location map; graphic scale;~~
- ~~c. Topography, not more than five foot intervals;~~
- ~~d. Designations sufficient to show the proposed building locations; front elevations for typical buildings are encouraged;~~
- ~~e. Points of ingress/egress with widths and radii designated;~~
- ~~f. Location of off-street parking, internal accesses, walkways;~~
- ~~g. Location of all drainage, utility, access, or other easements with specified width and purposes shown;~~
- ~~h. Statements regarding the utility services to be provided.~~

~~(2) Complete drainage plans, subdivision regulations compliance, and soil and erosion and sedimentation plan compliance, if applicable, will be necessary if site plan approval is granted and the project continues.~~

~~(b) *Review and approval.* The plan of the proposed planned unit development with the required supplementary information shall be referred to the municipal planning commission. Additional requirements may be recommended by the municipal planning commission for the protection of adjoining property or for the benefit and enhancement of the development. The municipal planning commission shall report its recommendations for approval or disapproval with reasons and any additional requirements to the city~~

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council for action. If no report is submitted by the municipal planning commission within 30 days of referral, the city council may take action without such a report.

- (c) ~~Delay in construction.~~ In the event that construction is not begun within two years from the date of approval by the council, or is begun but is halted for a period of more than one year, said approval shall be void. Re-approval must follow the procedure set forth in this article.
- (d) ~~Amendment to the plan.~~ The plan may be amended in accordance with the procedures set forth in this article.

{Ord. of 9-11-2018, § 15.2}

#### **~~Sec. 140-402. Permitted uses for all PUDs.~~**

(a) ~~The following uses shall be permitted for all PUDs:~~

- (1) ~~Single family dwelling.~~
- (2) ~~Multiple family dwelling.~~
- (3) ~~Church or other place of religious worship.~~
- (4) ~~School, public, private or parochial offering a curriculum similar to that of a public school.~~
- (5) ~~Recreation area such as golf course, park, playground, tennis court, swimming area, country club and similar uses.~~
- (6) ~~Community/meeting hall.~~
- (7) ~~Day care facilities (family only).~~
- (8) ~~Uses customarily accessory to the above.~~

(b) ~~The following commercial uses are allowed if the size of the PUD contains 20 acres or more:~~

- (1) ~~Offices.~~
- (2) ~~Automatic teller machines.~~
- (3) ~~Car washes.~~
- (4) ~~Convenience stores with gasoline, but not motor vehicle service stations.~~
- (5) ~~Video/music stores, game rooms/arcades, not to include taverns and lounges.~~
- (6) ~~Art/photography/antique/dance studios.~~
- (7) ~~Quick print/delivery drop shops.~~
- (8) ~~Retail stores such as food, drugs, books, flowers, hardware (not including outside storage/display of goods), and toys.~~
- (9) ~~Service establishment like dry cleaning drop-off, barbershops/beauty shops, coin-operated laundry, and similar uses.~~
- (10) ~~Assisted living facility (family, group, and congregate).~~
- (11) ~~Day care (group and facility).~~

{Ord. of 9-11-2018, § 15.2}

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**Sec. 140-403. Area, yard and height regulations.**

- (a) ~~A PUD shall have a minimum frontage of 100 feet on a public street.~~
- (b) ~~No building shall be located closer than 25 feet to any tract boundary, 25 feet to any existing public right of way or 25 feet to any proposed street within the development.~~
- (c) ~~The maximum building height shall be 35 feet.~~
- (d) ~~Arrangement of structures. No dwelling structure shall be situated so as to face the rear of another dwelling structure or non-dwelling structure within the development or on adjoining properties, unless differences in terrain and elevations are more than 60 feet apart.~~
- (e) ~~Distance between dwelling structures. Dwelling structures which are front face to front face or back face to back face or front face to back face shall not be less than 60 feet apart. Dwelling structures which are side face to side face shall not be less than 20 feet apart. Dwelling structures which are side face to front face or back face shall not be less than 40 feet apart.~~
- (f) ~~Maximum density permitted shall be ten dwelling units per gross acre of the tract.~~
- (g) ~~The maximum area devoted to commercial uses and related parking and accessory uses shall be ten percent of the total area.~~
- (h) ~~The minimum area devoted to public use open space shall be 20 percent of the total area. Schools, churches, and recreation areas may be considered as part of the public use open space.~~
- (i) ~~Proposed public school sites shall be subject to the approval of the county board of education.~~
- (j) ~~Buffer area. A permanent buffer, 20 feet wide, shall be established around the perimeter of such development, even when abutting a public street, using a combination of evergreen shrubs/trees, berms, and fences/walls as approved on the site plan. Except for fences or walls along the property line, no structures of any type shall be permitted within the buffer area.~~

~~(Ord. of 9-11-2018, § 15.4; Ord. No. BR2021-06, § 15.4, 7-13-2022)~~

**Secs. 140-404—140-434. Reserved.**

## ***ARTICLE XVII. STREET, TRAFFIC AND PARKING REGULATIONS***

### **Sec. 140-500. Required.**

Each use permitted by this chapter shall meet the requirements listed under this article.

(Ord. of 9-11-2018, art. 18, intro. ¶)

### **Sec. 140-501. Street right-of-way.**

Future street rights-of-way shall be reserved by the developer by means of a recorded plat. Actual dedication of such facilities shall be required under these regulations only after the street improvements are completed according to the specifications of the city. The developer shall guarantee the built street improvements for a period of 12 months, measured by the date of acceptance by the city.

(Ord. of 9-11-2018, § 18.1)

### **Sec. 140-502. Street improvements.**

Street improvements required to accommodate traffic generated by a use and improvement of new street rights-of way shall be made in accordance with city policy.

(Ord. of 9-11-2018, § 18.2)

### **Sec. 140-503. Extension of existing streets.**

Existing streets shall be connected and extended appropriately within the limits of a development. However, streets or portions of streets adjacent to a proposed nonresidential use, which are developed and are being used exclusively for residential access, shall not be connected, extended or in any way provide access to a nonresidential use. In addition, private driveways which provide access to a nonresidential use shall not be permitted in any residential district.

(Ord. of 9-11-2018, § 18.3)

### **Sec. 140-504. Street access, curb cuts in nonresidential districts.**

Curb cuts for service drives, entrances, exits and other similar facilities on public streets in nonresidential districts shall not be located within 50 feet of any intersection or within 40 feet of another curb cut. A curb cut shall be no greater than 40 feet in width and no closer than 20 feet to any property line, unless approved by the zoning administrator.

(Ord. of 9-11-2018, § 18.4)

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**Sec. 140-505. Traffic control devices.**

If the traffic forecasted to be generated by a use within a nonresidential district will necessitate, in order to handle turning movements into and out of the use on a major thoroughfare, traffic control devices for that use to ensure public safety as determined by the City Administrator and Police Chief, the developer shall install such devices as are necessary to handle the traffic generated by the development. ~~Such determination shall be made by the zoning administrator and approved by the mayor and council.~~

(Ord. of 9-11-2018, § 18.5)

**Sec. 140-506. State department of transportation approval.**

All entrances or exits of any street or driveway, public or private, from or to any state highway shall be approved by the state department of transportation prior to the construction of such street or driveway, or the issuance of any development permit for any improvement to be served by such street or driveway.

(Ord. of 9-11-2018, § 18.6)

**Sec. 140-507. Private streets.**

Private streets within any district shall not be used to satisfy the off-street parking requirements of this chapter. Private streets within any district shall be assigned names and locations and names shall be shown on plans required for the issuance of building and development permits as provided in article XX of this chapter. All private street names shall be approved by the zoning administrator to avoid conflicting names.

(Ord. of 9-11-2018, § 18.7)

**Sec. 140-508. Off-street automobile parking.**

Off-street automobile parking shall be provided in accordance with all applicable provisions of this section:

- (1) *Plans required.* A parking plan for all but single-family residential uses shall be submitted to the zoning administrator with the building plans for review to ensure its conformance with all applicable provisions of this chapter.
- (2) *Design standards.* Except provisions for single-family residences, all parking facilities, including entrances, exits and maneuvering areas, shall comply with the following provisions:
  - a. Shall have access to a public street;
  - b. Shall be graded and paved, including access driveways, and be curbed when needed for effective drainage control;
  - c. Shall have all spaces marked with paint lines, curb stones or other similar designations;
  - d. Each space shall have not less than 180 square feet, and shall be not less than nine feet wide and 20 feet deep, exclusive of passageways. There shall be adequate interior drives to connect each space with a public street;
  - e. Shall be drained so as to prevent damage to abutting properties or public streets;
  - f. Shall be separated from sidewalks and streets in public rights-of-way by wheel bumpers and an adequate reserve strip;

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- g. Parking areas established for permitted nonresidential uses in an "R" district shall meet the requirements of subsections (6) and (7) of this section;
  - h. The parking area including space and drive-way arrangement shall conform to the geometric design standards established by the city;
  - i. Adequate lighting shall be provided if the facilities are to be used at night. Such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties.
- (3) *Location.* All parking facilities shall be located in accordance with the following provisions:
- a. The required space shall be provided on the same plot with the use it serves, except as provided herein;
  - b. Where provision of the required parking spaces involves one or more parcels or tracts of land that are not a part of the lot on which the principle use is located, the developer shall submit with his application for a permit, an instrument which subjects said parcels or tracts to parking uses for the principle use it serves. The developer shall pay the necessary fee and the zoning administrator shall have said instrument registered in the office of the clerk of the superior court;
  - c. Where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or uses, the required spaces may be located and maintained on a separate lot at a distance not to exceed 300 feet from the building served.
- (4) *Joint use of parking facilities.* The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that one-half of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
- (5) *Use of area.* No parking area may be used for the selling, repairing, dismantling, servicing or long-term storage of any vehicles or equipment unless permitted by the district in which the area is located.
- (6) *Parking of business vehicle.* The parking of business vehicles in an "R" district, other than ordinary passenger automobiles, shall be within a garage or carport or within a side or rear yard.
- (7) *Required spaces.*
- a. Off-street automobile parking and storage space shall be provided on every lot on which any of the uses mentioned in this section are hereafter established. Such automobile parking or storage space shall be provided with vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific uses as set forth below.
  - b. All off-street automobile parking and storage space except for residential shall be so arranged that vehicles will not be required to back onto a public, street, road, or highway when leaving the premises.
  - c. Gross leasable area (GLA) is the total building floor area in square feet that a developer may lease. Gross floor area (GFA) is the sum of the areas of several floors of a building, including all areas for human occupancy, as measured from the exterior faces of the walls, but excluding unenclosed porches, interior parking spaces, or any space where the floor to ceiling height is less than six feet, six inches.
  - d. Off-street motor vehicle parking and storage spaces shall be equal in number to at least the minimum requirements established per use in the table that follows. For any multifamily or nonresidential development, ten percent of the required parking spaces (rounded up to the



nearest whole number) per development may be waived in lieu of the landscaping requirements within chapter 130, pertaining to landscaping.

<i>Minimum Off-Street Parking Requirements By Uses</i>	
<i>Uses</i>	<i>Parking Spaces</i>
<b>RESIDENTIAL</b>	
Dormitory for worker employed on the premises	1 per 3 employees plus 1 per dormitory manager
Dwelling, multifamily (including one bedroom units); loft dwellings	2 per dwelling unit
Dwelling, single-family detached	2 per dwelling unit
Dwelling, townhouse/condominium	2 per dwelling unit
Senior dwelling	1 space per dwelling unit
Group home	1 per employee plus 1 per 2 bedrooms
Manufactured home, industrialized home	2 per dwelling unit
Neighborhood center	1 per 250 sf GFA
Nursing home	1 for each 4 beds + 1 per 2 employees
Roominghouse and boardinghouse	1 per room to be let
<b>COMMERCIAL - RETAIL</b>	
Boat sales, service and repair	1 per 300 sf GFA, 2 spaces minimum
Convenience store (can include fuel service)	5 per 1,000 sf GFA
Furniture, home furnishing & equipment store	1 per 500 sf GFA, 2 spaces minimum
Grocery store	1 per 200 sf GFA
Hardware store	1 per 200 sf GFA
Liquor store	1 per 400 sf GFA
Manufactured home sales	4 per each sales person plus 1 for each employee
Motor vehicle sales & service	1.0 space per 250 sf of sales floor area + 2 spaces per service bay
Parts store, motor vehicle	1 per 400 sf GFA + 1 per each employee on maximum work shift
Restaurant, cafeteria, fast-food (with seating)	1 per 4 seats, 1 add'l space for each 2 employees
Restaurant, fast food w/drive-in facility (no seating)	1 per employee on maximum shift
Retail stores, general merchandise	1 per 200 sf GLA
Shopping center, planned -	
Under 400,000 sf GLA	5 per 1,000 sf GLA
+ Over 400,000 sf GLA	5.5 per 1,000 sf GLA
Tire sales, service and vulcanizing	1 per 300 sf GFA
<b>COMMERCIAL - SERVICE AND ENTERTAINMENT</b>	
Amusement center, game room	1 per 200 sf GFA, plus 1 per two tables/machines
Amusement park	Spaces equal in number to 30% of capacity
Bait shop	1 per 250 sf GFA
Bank or financial institution, full service	1 per 175 sf GFA
Bar, cocktail lounge, tavern, night club	1 per 4 seats
Barbershop, beauty salon	3 per workstation on maximum capacity

Bed and breakfast home	1 per guest room, plus 2 per owner's dwelling unit
Bed and breakfast inn	1 per guest room, plus 1 per employee, plus 2 per full-time resident
Bowling alley	4 per alley
Dance halls	1 per 150 sf of GFA
Dry cleaning	1 per 200 sf GFA
Funeral home/mortuary	1 per 4 seats in chapel + 1 per 2 employees + spaces for company vehicles
Gas station, full service	1 per each employee plus 3 per service bay
Gas station, self-serve (fuel only)	1 per employee
Health club and facilities	1 per 200 sf GFA
Hotel, motel, motor lodge (also see Residence inn)	1 per sleeping room or suite, 1 add'l space for each 2 employees
Laboratory, research & development facilities	1.5 per employee
Laundromat	1 per 200 sf GFA
Machinery sales, service and repair	4 per sales person plus 1 for each other employees
Miniature golf course	3 per each hole + 1 per employee on maximum shift
Oil change shop, motor vehicle	3 per service bay
Offices (business, medical, dental, and professional)	1 per 225 sf GFA for single floor designs; 1 per 275 sf GFA for designs with two or more floors
Pet shop and dog grooming shop	1 per 400 sf GFA w/a minimum of 4 spaces
Printing, publishing and engraving	1 per 2 employees on premises + 1 per 300 sf of sales space
Race track, motor vehicles	1 per 4 seats
Repair service, general merchandise	1 per 2 employees on premises + 1 per 300 sf of sales space
Repair & body shop, motor vehicle	1 per 150 sf GFA
Residence inn (extended stay)	2 per dwelling unit, 1 add'l space per employee
RV sales and camper sales, service & repair	4 spaces for each sales person plus 1 per employee
Shooting range, indoor	1 per employee plus 1 per shooting lane
Studio for art, photograph and similar uses	1 per 400 sf GFA, 3 spaces minimum
Theater, movie or drama	1 per 3 seats
Truck terminal	1 per 1,000 sf GFA
Veterinary clinic	4 spaces per doctor, plus 1 per additional employee
Video store	1 per 200 sf GFA
<b>INDUSTRIAL - STORAGE/WAREHOUSING/WHOLESALE TRADE</b>	
Mini-warehouse (self-service storage facilities)	1 per 10 storage units + 1 per employee

Warehouse and storage buildings	1 per employee on maximum working shift, plus space for storage of truck or vehicles used
Junkyard, salvage yard	2 per employee
Wholesale, trade establishments	1 per employee, plus 1 per 200 sf of sales floor area
INDUSTRIAL - MANUFACTURING ESTABLISHMENT/PROCESSING	
Manufacturing and industrial uses	1 per employee on the maximum working shift
Contract construction	1 per 250 sf of gross office space + 1 per non-office on-site employee
Mineral extraction & processing	1 per 2 employees on maximum working shift
PUBLIC/INSTITUTIONAL	
Ambulance services	1 per each emergency vehicle plus 1 add'l space for each employee
Art gallery	1 per 250 sf GFA
Auditorium, assembly hall, civic center, community center	1 per 4 seats or bench seating spaces
Cemetery, mausoleum	1 per employee
Childcare facilities	1 per each 1.5 employees + 1 per 4 pupils
Church	1 per 4 seats or bench seating spaces
Club and lodges, noncommercial	1 per 100 sf GFA
Convent & monastery	1 per 2 beds
Fire station	1 per each employee on the maximum working shift
Hospital, health and medical institution	1 per 2 patient beds, 1 additional for each 3 employees
Library	1 per 400 sf GFA + 1 per 2 employees
Museum	1 per 250 sf GFA
Police station/correctional facility	2 per employee on the maximum working shift, plus 1 per 8 inmates considering the maximum inmate holding capacity
Post office	1 per 200 sf GFA + 1 per employee on maximum working shift
Recycling center	1 per employee
School, public or private elementary/middle	2 per classroom, but not less than 1 per full-time employee
School, public or private high	1 per 3 students + 1 per full-time employee
School, college	10 per classroom
School, vocational/technical	20 per classroom
TRANSPORTATION/COMMUNICATION/UTILITIES	
Bus terminal	4 per each loading and unloading bay
Radio, TV & communication transmission tower	1 per 2 employees on premises + 1 per 300 sf of sales or customer space
Utility facilities	1 per employee + 1 per stored vehicle

Water treatment facilities	1 per employee
<b>PARK/RECREATION/CONSERVATION</b>	
Golf courses and club houses, private	Six per hole, plus additional spaces for each accessory facility
Golf courses and club houses, public	Eight per hole, plus additional spaces for each accessory facility
Golf driving range	2 per each driving tee
Park with recreational facilities	Spaces equal in number to 30 percent of capacity
Recreation vehicle park	1.5 per each RV space
Shooting range, outdoor	Skeet range & trap range: 1 per employee plus 1 for each shooter
	Target range: 1 per employee plus 1 per shooting lane
Skating rink, roller and ice	5 spaces per 1,000 sf of GFA
Swimming pool, public	30 spaces minimum
<b>AGRICULTURAL</b>	
Agricultural services	2 per 3 employees or 1 per 400 sf GFA
Kennel	1 per employee + 1 per 1,000 sf GFA
Lumber yard	1 per each 500 sf GFA
Meat pack & processing/slaughter yard	1 per 1,000 sf GFA
Nursery/greenhouse	1 per 400 sf of GFA, plus 1 per 2,000 sf of exterior nursery area
Sawmill	1 per employee
Stock yard	1 per employee on maximum shift

- (8) *Interpretation of required spaces.* In connection with subsection (7) of this section, the following apply:
- a. The parking requirements in the chart do not limit other parking requirements contained in these regulations.
  - b. The parking requirements in the chart do not limit special requirements which may be imposed with conditional use and variance reviews by the ~~mayor and city council~~ or special exceptions by ~~the zoning board of appeals~~.
  - c. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
  - d. The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.

(Ord. of 9-11-2018, § 18.8)

**Sec. 140-509. Off-street loading requirements.**

Off-street loading shall be established in accordance with all applicable provisions of this section.

- (1) *Design standards.* Where required, one or more off-street loading spaces shall be provided on the same or adjoining premises with the facility it serves, either inside or outside a building and shall:

- a. Have a minimum dimension of 13.5 feet by 60 feet by 14.5 feet overhead clearance.
  - b. Be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with erosion-resistant material.
  - c. Be located so as not to hinder the free movement of vehicles or pedestrians over a street, sidewalk, or alley.
- (2) *Use of area.* Loading spaces shall be maintained in a clean, orderly and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.
- (3) *Mixed uses in a building.* Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading spaces shall be provided as if the entire building were used for that use in the building for which the most spaces are required. In such cases, the zoning administrator may make reasonable requirements for the location of required loading spaces.
- (4) *Required spaces.* The number of spaces required for a particular use shall be as follows:

<i>Use or Use Category</i>	<i>Floor Area</i>	<i>Loading Spaces Required</i>
Retail store, department store, restaurant, wholesale house, warehouse, general service, manufacturing or industrial establishment	2,000-10,000	One
	10,000-20,000	Two
	20,000-40,000	Three
	40,000-60,000	Four
	Each 50,000 over 60,000	One Additional
Apartment building, motel, hotel, offices or office building, hospital or similar institutions or places of public assembly	5,000-10,000	One
	10,000-100,000	Two
	100,000-200,000	Three
	Each 100,000 over 200,000	One Additional

- (5) *Interpretation of required spaces.* In connection with subsection (4) of this section, the following shall apply:
- a. The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in these regulations.
  - b. The loading space requirements in this section do not limit special requirements which may be imposed in connection with conditional use and variance reviews by the mayer and city council or special exception by the zoning board of appeals.
  - c. Under the provisions of article XXII of this chapter, the board of appeals city council may waive or reduce the loading space requirements whenever the character of the use is such as to make unnecessary the full provisions of loading facilities, where provision is made for community loading facilities, or where provision of loading space requirements is impractical under certain conditions for uses which contain less than 10,000 square feet of floor area.

(Ord. of 9-11-2018, § 18.9)

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**Secs. 140-510—140-526. Reserved.**

## **ARTICLE XIX. NONCONFORMING USES**

### **Sec. 140-556. Continuation of use.**

A nonconforming use may be continued, but no nonconforming use which has been discontinued for a continuous period of 12 months shall be reestablished.

(Ord. of 9-11-2018, § 20.1)

### **Sec. 140-557. Extension of use or building.**

No nonconforming building or use shall be extended, nor shall its total value be enhanced, unless such extensions or alterations conform with the use and development provisions of the district in which it is located. However, such extension limitation shall not apply to maintenance of the appearance or structural condition of the nonconforming use or building. Furthermore, a nonconforming use may be extended throughout those interior parts of a building which were designed for such use prior to the advent of the nonconforming use status, even though such extension may enhance its total value.

(Ord. of 9-11-2018, § 20.2)

### **Sec. 140-558. Building use and enlargement.**

The uses permitted by this chapter may be established as a new use within any existing structure which does not conform with the development requirements of the district, provided the off-street parking requirements of that use are complied with, and provided further that if any structure or any part thereof is remodeled or rebuilt to an extent exceeding one-third of its then replacement value, exclusive of foundations, as determined by the zoning administrator, or if any additions or new structures are erected, the entire such building or structure must be in conformance with the development requirements of the district.

(Ord. of 9-11-2018, § 20.3)

### **Sec. 140-559. Restoration.**

Any nonconforming building or any building containing a nonconforming use, which has been damaged by fire or other causes may be reconstructed and used as before if it be done within one year of such damage, unless such building or structure has been declared by the zoning administrator to have been damaged to an extent exceeding 60 percent of its then replacement value, in which case any repair, reconstruction, or use shall be in conformity with the provisions of this chapter.

(Ord. of 9-11-2018, § 20.4)

### **~~Sec. 140-560. Existence of a nonconforming use.~~**

~~In case of doubt, and on a specific question raised, whether a nonconforming use existing shall be a question of fact and shall be decided by the zoning board of appeals after public notice and hearing and in accordance with the rules of the board.~~

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(Ord. of 9-11-2018, § 20.5)

**Sec. 140-5601. Continued construction of a nonconforming use.**

Any nonconforming use, nonconforming only as being in a district where such use is not permitted, if such nonconforming use was existing and established before the ordinance from which this chapter is derived became effective or amended, shall be permitted to continue construction until such time as contemplated construction is completed, provided such construction complies with all other district regulations pertaining to yard area, etc. This shall apply only to the immediate property which was recorded in the developer's name before the effective date of the ordinance from which this chapter is derived or amended. ~~It shall be the duty of the mayor and council to determine the eligibility of the owner to continue construction.~~ This shall not include signs and billboards, or junkyards.

(Ord. of 9-11-2018, § 20.6)

**Sec. 140-561. Reconstruction of nonconforming residential structures.**

Notwithstanding anything in this chapter to the contrary, any nonconforming residential structure may be demolished and rebuilt, so long as the new structure does not extend beyond the footprint of the existing nonconforming structure.

**Secs. 140-562—140-585. Reserved.**



**ARTICLE XXI. REMEDIES AND PENALTIES**

**Sec. 140-616. Remedies.**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this chapter, the zoning administrator, city attorney or other appropriate authority of the city or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedy, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

(Ord. of 9-11-2018, § 22.1)

**Sec. 140-617. Penalties.**

Any firm, person or corporation who shall do anything prohibited by ~~thisese regulations chapter~~ as the same exists or as ~~theyit~~ may hereafter be amended or who shall fail to do anything required by ~~thisese regulations chapter~~ as ~~theyit~~ now exists or as ~~theyit~~ may hereafter be amended is subject to the general penalty provisions set forth in Section 1-20 of the Code ~~hereby declared to be guilty of a misdemeanor and shall be punished as provided by law. Each and every day that such violation occurs shall be deemed a separate offense.~~

(Ord. of 9-11-2018, § 22.2)

**Secs. 140-618—140-637. Reserved.**