

## Chapter 80 - ZONING

### ARTICLE I. - IN GENERAL

#### Sec. 80-1. - Purpose and intent.

It is the purpose of this chapter to promote the public health, safety and welfare of the citizens of the city and visitors thereto. To these ends, this chapter is intended to achieve, and is enacted for, the following purposes:

- (1) To guide and regulate the orderly growth, development, redevelopment and preservation of the city in accordance with a well-considered comprehensive plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.
- (2) To protect the established character and the social and economic well-being of both private and public property.
- (3) To promote, in the public interest, the wise utilization of land.
- (4) To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers.
- (5) To reduce or prevent congestion in the public streets.
- (6) To facilitate the creation of a convenient, attractive and harmonious community.
- (7) To encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations.
- (8) To expedite the provision of adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements.
- (9) To protect against destruction of, or encroachment upon, historic areas.
- (10) To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life, health or property from fire, flood, or other danger.
- (11) To encourage economic development activities that provide desirable employment and enlarge the tax base.
- (12) To promote the preservation of the unique natural and physical resources of the city including forested areas, riverbeds, streambeds, and archaeological sites.
- (13) To achieve compliance with all applicable state and federal regulations.
- (14) To provide for protection of the constitutional rights and obligations of all citizens within the city.

#### Sec. 80-2. - Interpretation of certain terms and words.

In interpreting this chapter, the word "lot" includes the words "plot" and "parcel". The words "used" and "occupied," when applied to any land or building, include the words "intended, arranged or designed to be used or occupied".

#### Sec. 80-3. - Definitions.

Except as specifically defined herein, all words used in this chapter shall carry their customary meaning as defined by a standard dictionary. See section 80-239 for additional definitions relating to

signs. See section 80-270 for additional definitions relating to telecommunications towers. See chapter 14, article II for additional definitions related to adult entertainment establishments.

*Accessory structure* means a structure located on the same lot as the principal use, which is clearly incidental and secondary to the permitted use and which does not change the character of such use, including, but not limited to, private garages, bathhouses, greenhouses, tool sheds, storage buildings, or similar.

*Adult entertainment establishment* means an establishment subject to the regulations of chapter 14.

*Alley* means a minor way, public or private, used for service access to the back or side of properties otherwise abutting a street.

*Apartment* means a multifamily residential use of five or more attached dwelling units for which rent is paid and no fee title is conveyed.

*Artisan manufacturing* means the shared or individual use of hand tools, mechanical tools and electronic tools for the manufacture of finished products or parts including design, processing, fabrication, assembly, treatment, and packaging of products; as well as the incidental storage, sales and distribution of such products. Typical artisan manufacturing uses include, but are not limited to: electronic goods; food and bakery products; non-alcoholic beverages; printmaking; household appliances; leather products; jewelry and clothing/apparel; metal work; furniture; glass or ceramic production; and paper manufacturing.

*Assembly plant* means a facility that performs the fitting together, or assembling of pre-manufactured parts into a complete article, sub-assembly, or product. A "heavy assembly plant" assembles products that exceed 200 pounds per unit (e.g., cars, motorcycles, etc.) or does not have a completely enclosed production line. These definitions shall not apply if a more specific use, term or definition is contained in this chapter.

*Block* means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys.

*Boardinghouse/roominghouse* means a dwelling in which lodgers, for a fee, rent a portion thereof and the right to stay for one or more nights, and where meals and some services, such as laundry and cleaning, may be provided.

*Building* means any structure intended for shelter, housing, or enclosure of persons, animals, chattels or property, and usually having a roof supported by columns or by walls.

*Building frontage* means the required percentage of lot width fronting a public road that must be occupied by a building façade.

*Building, accessory*, means a detached structure designed for the use of which is clearly incidental to and subordinate to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

*Building, principal*, means a building in which is conducted the main use of the lot on which said building is located.

*Commercial* or *commercial operations* means an activity undertaken for profit, income, or other business purposes, including sales or manufacture of goods or items, including sale of animals, and including boarding and breeding of animals, and similar activities.

*Commercial vehicle* means a duly licensed and registered vehicle used to transport passengers or property to further a commercial enterprise. A commercial vehicle must not be used as an office nor have customer entry for a retail transaction. For purposes of this chapter, the following are also commercial vehicles:

- (1) Vehicles of more than 10,000 pounds gross vehicle weight;
- (2) Vehicles with a manufacturer's rated load capacity of more than three-quarters of a ton;
- (3) Vehicles registered as commercial vehicles, common carriers, motor common carriers, or classified as "for hire" by the state, other states, or the ICC; or

- (4) A freight trailer, semi-trailer, flatbed, tanker trailer, log trailer or other commercial trailer or shipping container exceeding 12 feet in length.

A recreational vehicle, farm machine or farm vehicle for agricultural uses is not a commercial vehicle.

*Conditional zoning* means the imposition of conditions in the grant of a rezoning application which are in addition to or different from the regulations set forth in this chapter and which are related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use, height, setbacks and other non-use requirements, physical improvements to the property, and infrastructure serving the property.

*Condominium* means individual ownership units in a multifamily structure, combined with joint ownership of common areas of the building and grounds, or otherwise meeting the definition of condominium in the Georgia Condominium Act, title 44, chapter 3, article 3.

*Conventional single-family housing (site-built home)* means a dwelling unit constructed on the site from materials delivered to the site, constructed in accordance with the applicable standard building codes.

*Developer* means the owner of, or person responsible for, a development.

*Development or to develop* means subdividing a tract of land into three or more lots whether for sale or rental, whether for commercial, industrial, office or residential purposes, or some combination thereof. It shall also include redevelopment of existing development. It shall also include the construction of any commercial, industrial, multifamily or office building or structure, even if on a single lot, and shall include the construction of a manufactured house park. In order that the purposes of this chapter shall not be evaded by piecemeal development or subdivision, subdividing a tract of land existing on the date of the adoption of this ordinance, into two tracts shall not be a development, but any further split of either tract shall be a development.

*Dwelling* means a building or other structure designed, arranged, or used for temporary or permanent living quarters for one or more persons.

*Dwelling unit* means a building or portion thereof, providing complete living facilities for one family.

*Dwelling, live-work* means a single dwelling-unit attached with direct access to a business or office.

*Easement* means a grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

*Enclosure* means a structure with four sides and a roof designed to enclose and shelter animals, persons or objects.

*Family* means an individual or two or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six persons who need not be related by blood, marriage, or adoption, living together in a dwelling unit. For purposes of this chapter, the term "family" may include five or fewer foster children placed in a family foster home licensed by the state, but shall not include fraternities, sororities, nursing homes, or rest homes.

*Greenspace* means property that has been conveyed to a land trust or the city for preservation in the governor's greenspace program.

*Group home for persons with a disability* means a residence in which three or more persons with a disability reside and which is licensed by the state department of human resources as a personal care home under title 31. See section 80-173 for further regulations.

*Health department* means the Walker County Health Department, which reports to the Walker County Board of Health.

*Home occupation* means any use customarily conducted within the principal dwelling and carried on solely by the occupant thereof. See section 80-92 for further regulations.

*Hotel* means a building or structure typically multi-story, providing multiple residential dwelling units for typically short-term rental (two weeks or less), with interior access to the units.

*Industrialized housing* means a factory fabricated dwelling built in one or more sections designed to fit together on a foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act (O.C.G.A. § 8-2-110) and which bears the seal of approval issued by the department of community affairs.

*Industry, general*, means the manufacture, assembly, repair, processing, testing or packaging of finished products, predominantly from previously prepared materials or from raw materials; includes processing, fabrication, incidental storage, and distribution of such products. In general, such uses shall occur entirely or almost entirely within an enclosed structure. Without restricting the generality of the foregoing, this would include, for example: assembly plants, feed processing plants, soft drink bottling and distribution plants, beer and liquor distribution plants, carpet manufacturing plants, and similar facilities. In cases of facilities not clearly falling into this definition, the Public Works Director shall determine whether a facility is general industry or heavy industry.

*Industry, heavy*, means a large-scale industrial manufacturing or processing activity, including especially the manufacturing or processing of raw materials for other industry, businesses or uses. Without restricting the generality of the foregoing, this would include for example: plants for the manufacture of petroleum products, pulp and paper products, stone, clay, and glass products, cement and lime products, fertilizers, animal by-products; and plants which will be engaged in the primary metal industry, metal processing, or the processing of natural gas or its derivatives. This would also include plants and facilities involved in the production (or processing) of intrinsically dangerous materials or products such as explosives, acids, and the like. In cases of facilities not clearly falling into this definition, the Public Works Director shall determine whether a facility is general industry or heavy industry.

*Institutional-residential uses* means uses that provide residential living space or dwelling units for persons in an institutional or group setting, whether for day care, 24-hour care or unassisted living, specifically defined as one of the following types: assisted-living facility, adult day care, child day care, homeless shelter, home for the aged, hospice, nursery school, nursing home, group home, protective housing facility, rehabilitation/treatment facility, residential treatment center, rest home, retirement home, and shelter care facility. See section 80-173 for further applicable regulations.

*Junk yard (salvage yard; scrap yard)* means any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in bones, animal hides, scrap metal, commercial/residential appliances, used paper, used cloth, used plumbing fixtures and used brick, wood, or other building materials. Such uses shall be considered junk yards 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. See section 80-174 for additional regulations.

*Land disturbing activity* means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural operations and forestry.

*Land disturbance permit* means a permit granted under the city soil erosion and sedimentation control ordinance that provides the authorization necessary to conduct a land disturbing activity under the provisions of that ordinance and this chapter.

*Line, lot*, means the boundary line of a lot.

*Line, yard*, means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required setback.

*Live-work unit* means a structure or portion of a structure that combines residential living space with an integrated work space used principally by the occupant of the unit.

*Lot* means a developed or undeveloped tract of land having defined boundaries and legally transferable as a single unit of land; does not refer to public rights-of-way.

*Lot of record* means a lot described in a deed, survey or final subdivision plat recorded in the public records of the county clerk of the superior court that was in compliance with ordinances and regulations in existence at the time that the lot was created. Illegal lots that were created in violation of regulations existing at the time of creation are not lots of record.

*Lot, depth of,* means the mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

*Lot, width of,* means the distance between side lot lines.

*Manufactured house (mobile home)* means a detached, single-family dwelling unit designed for long-term occupancy and constructed in one or more units with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.

*Manufactured house, multi-unit,* means a detached single-family dwelling unit constructed in two or more units with similar marriage walls with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.

*Manufactured house stand* means that area of a manufactured house lot which has been reserved for the placement of a manufactured house.

*Motel* means a building or structure of typically one or two stories height providing multiple residential dwelling units typically for short-term rental (two weeks or less), with adjacent parking and external access to each unit.

*Nonconforming use* means a lawful use of or vested right to use any building, structure or land existing at the time of the adoption of the ordinance from which this chapter is derived or the adoption of any amendment thereto. See section 80-89 for further regulations.

*Open space* means an area that is not used for or occupied by a driveway, an off-street parking area, a loading space, a yard, a refuse storage space, or a building.

*Ordinance* means this chapter and all amendments thereto including the official zoning map of city.

*Place of worship* means a structure which is intended for conducting organized religious services for organizations with tax-exempt status, with no overnight facilities. Secondary uses such as child care, senior services, professional counseling, hospices, schools, rehabilitation services, or similar uses are not included in this definition. The term "place of worship" does not include organizations that violate federal, state, or city laws or codes.

*Planned unit development (PUD)* means a planned development which may include multiple uses within the same tract. See section 80-132 for further regulations.

*Plat* means a map, plan or layout of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties.

*Principal use* means the specific, primary purpose for which land or a building is used.

*Public Works Director* means the Public Works Director of the city, or a duly authorized representative.

*Recreational vehicle* means a camper, camp trailer, travel trailer, house car, motor home, trailer bus, trailer coach or similar vehicle, with or without motive power, designed for human habitation for recreational or emergency occupancy. Where a recreational vehicle is on or attached to a trailer used to carry or tow said vehicle, they shall together be considered one recreational vehicle. The term "recreational vehicle" shall not include a pickup truck used for transportation to which a camper shell has been attached. See article IV of this chapter for further regulations.

*Redevelopment* means the process of developing property that has previously been developed. See *Development*.

*Retail business* means a business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.

*Right-of-way line (also r/w)* means the dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

*Setback* means the open space between the lot line and the yard line, which shall be unobstructed by any structure other than as expressly permitted in this chapter. See section 80-61. Where a distinction is made between an external setback and an internal setback, the term "external setback" refers to the setback from external boundary lines and rights-of-way, and the term "internal setback" refers to spacing between multiple buildings on one larger lot (e.g., apartment buildings or townhomes).

*Sign* means any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices. See article IX of this chapter for further sign regulations and definitions.

*Special use* means a use not ordinarily permitted but which may be permitted upon the imposition of conditions related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use; height, setback and other non-use requirements; physical improvements to the property and infrastructure serving the property. A special use must be approved in the same manner as a rezoning request prior to the issuance of a permit. See article XIV of this chapter.

*Street* means a way for vehicular traffic, whether designated as an avenue, road, boulevard, highway, expressway, lane, alley or other way.

*Structure* means anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

*Subdivide* means dividing a tract of land into three or more lots.

*Subdivision* means a tract of land divided into three or more lots.

*Swimming pool* means any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in ground, above ground, and on ground swimming pools, but the term "swimming pool" does not include inflatable temporary pools. See section 80-102 and applicable building code for additional regulations.

*Townhouse* means a multifamily residential use consisting of three or more attached dwelling units for which fee simple title is conveyed and for which an incorporated mandatory homeowners' association is provided.

*Travel trailer/camper.* See *Recreational vehicle*.

*Wholesale business* means a business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.

*Yard* means an open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

*Yard, front,* means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street and the front line of the building projected to the side lines of the lot.

*Yard, rear,* means an open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to side lines of the lot.

*Yard, side,* means an open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

*Zoning map* means the official zoning map of Rossville, Georgia. See section 80-26.

Secs. 80-4—80-24. - Reserved.

## ARTICLE II. - ESTABLISHMENT OF ZONING DISTRICTS

Sec. 80-25. - Division into districts.

(a) For the purpose of this ordinance, the City of Rossville, Georgia, is divided into the following districts designated as follows:

- R-1 Low density single-family residential district
- R-2 Medium density single-family residential district
- R-3 Medium density residential district
- R-4 High density residential district
- R-5 Single-family manufactured homes district
- C-1 General business district
- C-2 Business district
- I-1 Light industrial district
- I-2 Heavy industrial district
- PUD Planned unit development district

(b) In addition to the zoning districts above, there shall be a central business overlay district which shall have regulations which may be more or less strict than the underlying zoning classifications listed above.

Sec. 80-26. - District boundaries; official zoning map.

The boundaries of each district are as shown on the "Official Zoning Map of Rossville, Georgia," which is hereby incorporated into this chapter by reference. The official zoning map shall be retained in the office of the Public Works Director and shall be available for inspection by the public during regular city business hours.

Sec. 80-27. - Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by the use of the scale shown on said map.

Secs. 80-28—80-57. - Reserved.

### ARTICLE III. - GENERAL REGULATIONS FOR LOTS

Sec. 80-58. - Use; applicable ordinances.

- (a) No building, structure, land, lot or portion of a lot shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless the use or occupancy is in conformity with the codes and ordinances in effect in the city at the time a permit is issued, or an application is made for a permit, and all of the regulations herein specified for the district in which it is located.
- (b) There shall be only one principal use per lot. Only accessory structures that are accessory to that principal use shall be permitted. See also section 80-60.
- (c) This chapter regulates zoning. The city building code ordinance and the city building inspector should be consulted for applicable state standard minimum codes applying to construction, repair and renovation. The county board of health and the county health department should be consulted for applicable health regulations relating to on-site sewage management systems (i.e., septic systems) and regulation for swimming pools, food service, tourist courts and other potentially applicable regulations.
- (d) Each owner and occupant of a lot having an occupied structure shall post the street address of the property in a manner that is readily visible from the public right-of-way.

Sec. 80-59. - Yards.

- (a) Yards must remain open space, unobstructed by buildings or structures, except as otherwise permitted, such as accessory buildings in the rear or side yard.
- (b) No part of a yard, or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Sec. 80-60. - Principal use; accessory buildings.

- (a) Only one principal use is permitted per lot or tract.
- (b) Every building or structure hereafter erected shall be located on a lot or tract as defined herein, and there shall not be more than one principal building on one lot, plus its accessory buildings.
- (c) Accessory buildings and structures in residential zoning districts or ancillary to residential use are permitted only in the side or rear yard and shall not be less than ten feet from the side and rear property lines, and shall also meet all buffer requirements, if applicable. No part of an accessory structure may be built closer to the street than the existing front building line of the principal structure. On lots of less than two acres, there shall be no more than three accessory buildings, including any detached garages.
- (d) Temporary accessory structures (for example, mobile storage containers) may be located in any yard (including front yards) for no longer than 14 days. After that time period, any such structure must be removed.

Sec. 80-61. - Setbacks and rights-of-way.

- (a) No building or other structure may be erected in a front, side or rear setback, except for driveways, walkways, structural retaining walls, and patios (but not elevated decks or cantilevered overhangs). Eaves and stairs may protrude no more than three feet into a setback.



- (b) On lots having frontage on more than one street in any district, the front setback figure shall apply to each street.
- (c) The Public Works Director shall be empowered to grant an administrative variance (under section 80-327) to the internal development setbacks for lots abutting new streets in new developments, but not for lots abutting external boundary lines or existing streets.

Sec. 80-62. - Lots; creation of illegal lots.

- (a) *Lot reduction.* It is not permitted to reduce an existing lot below minimum standards. Specifically, no lot shall be reduced in size so that the mandatory lot frontage or depth; front, side or rear yard; width at building line; or lot area are not maintained. Lots of record that do not meet existing standards may not be reduced. This section shall not apply when a portion of a lot is acquired for public purposes.
- (b) *Illegal lots.* It is not permitted to split or subdivide any lot if any of the resultant lots are under the minimum size lot allowed in the zoning district. Creation of a new lot under the minimum size requirement of the relevant zoning district is not permitted, nor is leaving a remnant under the minimum size requirement. It is not permitted to reduce an existing lot's size under the minimum size requirement. Any subdivision or creation of a substandard lot is illegal and shall not create any vested right nor permit any nonconforming use.
- (c) *Substandard single lots.* Where the owner of a lot of record or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this chapter, such lot may be used as a building site for a single-family residence in a district where residences are permitted.
- (d) *Substandard adjoining lots.* If two or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of the ordinance from which this article is derived or amendment thereto and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size, and the lot or lots in one ownership shall be subject to the requirements of this chapter.

Sec. 80-63. - Road frontage restrictions; private driveways and easements.

No new lot shall be created, nor shall any principal building be erected, on any lot which does not have immediate access and frontage, of a minimum amount as specified in article V of this chapter, on at least one existing public road or on a newly created internal street in a development. The minimum road frontage requirements are defined in article V of this chapter based on the underlying zoning district.

Sec. 80-64. - Street facade requirements.

The following street facade requirements apply to the sides of all new non-residential developments and structures in the C-1 and C-2 zoning districts facing on Chickamauga Avenue or McFarland Avenue.

- (1) Installation of sidewalks shall be required. Sidewalk level uses shall have at least one primary pedestrian entrance which faces, is visible from, and directly adjacent to the required sidewalk. Where a property fronts on more than one street, only one such entrance shall be required.
- (2) The first two stories of building facades shall be brick, cast stone, concrete siding such as Hardiplank, natural wood or stone, with the exception of pedestrian entrances and windows.
- (3) Awnings shall be of fabric, canvas, fixed metal, or similar material. Internally lit awnings and canopies that emit light through the awning or canopy material are prohibited.

- (4) Blank, windowless walls are prohibited. All building stories with the exception of storefront treatments shall have windows and doors that equal a minimum of 30 percent and maximum of 60 percent of the total facade area with each story being calculated independently.
- (5) All windows shall be vertically shaped with a height greater than width, including display windows but not transoms.
- (6) Glass panels in windows and storefronts shall be clear and unpainted, and shall not be tinted such that views into the building are obstructed.
- (7) Entry facade window trim shall not be flush with the exterior wall and shall have a minimum relief of one-quarter inch from the exterior wall.
- (8) Window frames shall be recessed a minimum of two inches from the exterior facade.
- (9) Porches and stoops shall not be enclosed with screen wire or glass.
- (10) Porch and arcade columns shall be a minimum width of eight inches.
- (11) Exterior entry steps shall have enclosed risers.
- (12) Building foundations shall be brick, stone, stucco, or concrete with similar appearance.
- (13) Parking structures shall conceal automobiles from visibility; shall have the appearance of a horizontal storied building on all levels; shall be faced in brick, stone, cast stone, poured-in-place rubbed concrete, or pre-cast concrete faced in or having the appearance of brick or stone.

Sec. 80-65. - Building walls facing public right-of-way.

In all zoning categories, principal and accessory structures must have at least 75 percent of the front of the building constructed of wood, Hardiplank siding, brick, stucco, etched-faced block, rock or stone, and at least 25 percent of any side facing a public right-of-way shall be composed of these same materials.

Sec. 80-66. – Off-street parking and loading.

(a) Off-street automobile parking.

Off-street automobile parking shall be provided on every lot on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Turning space shall be provided in all off-street automobile parking areas so that no vehicle will be required to back onto a public street when leaving the premises.

- (1) *Automobile repair garages:* One space for each regular employee plus one space for each 250 square feet of floor area used for repair work.
- (2) *Churches, synagogues, or other places of worship, and fraternal organizations:* One space for each four seats in the main assembly room.
- (3) *Funeral parlors:* One space for each four seats in the chapel.
- (4) *Gasoline filling stations:* Two spaces for each gas pump plus three spaces for each grease rack or similar facility.
- (5) *Hospitals and nursing homes:* One space for each four beds plus one space for each staff or visiting doctor plus one space for each four employees, including nurses.
- (6) *Hotels:* One space for each three guest bedrooms plus one space for each five employees.
- (7) *Industrial:* One space for each two employees at maximum employment on a single shift plus one space for each company vehicle operating from the premises.
- (8) *Offices:* One space for each 200 square feet of floor space.

- (9) *Places of public amusement and assembly*: One space for each four seats in the main assembly room.
- (10) *Residential, single-family*: Two spaces for each dwelling unit.
- (11) *Residential, two-family and multifamily*: One space for each dwelling unit.
- (12) *Restaurants*: One space for each 75 square feet of floor area devoted to patron use, plus one space for each four employees.
- (13) *Retail business*: One space for each 200 square feet of floor space.
- (14) *Rooming and boarding houses*: One space for each two bedrooms.
- (15) *Schools*: One space for each employee and one space for each ten students.
- (16) *Tourist homes and motels*: One space for each accommodation.
- (17) *Trailer parks*: One space for each trailer space.
- (18) *Wholesale business*: Two spaces for each employee.
- (19) *Yacht club, country club*: One space for every ten [members].
- (20) *Location on other property*: If the required automobile parking space cannot be provided on the same lot, on which the principal use is conducted, such space may be provided on other off-street property provided such property lies within 500 feet of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner.

(b) Off-street loading and unloading space.

On every lot where a business, trade or industrial use is hereafter established, space with access to public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

- (1) *Retail business*: One space of at least 10 feet by 20 feet for each 3,000 square feet of floor area or part thereof.
- (2) *Wholesale and industrial*: One space of at least 10 feet by 50 feet for each 10,000 square feet of floor area or part thereof.
- (3) *Bus or truck terminals*: Sufficient space to accommodate the maximum number of buses or trucks that will be stored or will be loading or unloading at the terminal at any one time.

Secs. 80-67—80-88. - Reserved.

#### ARTICLE IV. - REGULATION OF PROPERTY

Sec. 80-89. - Continuance of a nonconforming use.

Any preexisting lawful nonconforming use of or vested right to use any building, structure or land existing at the time of the adoption of this ordinance, or the adoption of any amendment hereto, may be continued subject to the restrictions contained in this article, even though such use does not conform with the regulations of this ordinance, except that:

- (1) A nonconforming use or structure shall not be changed to another nonconforming use.
- (2) A nonconforming use or structure shall not be expanded, extended, or enlarged beyond the area of use, size of operation, and/or the size of the structures existing at the time the use became nonconforming except in a manner that is conforming with this ordinance. Similarly, no building containing a nonconforming use can be expanded or enlarged.

- (3) A nonconforming use or structure shall not be re-established after discontinuance for one year regardless of any reservation of an intent not to abandon.
- (4) A nonconforming use or structure shall not be rebuilt, altered, or repaired except as provided herein:
  - a. If the structure is altered or repaired, said alterations or repairs shall be in conformity with the building codes in force at the time of said alteration or repair; provided, however, that said alteration or repair shall not extend or enlarge the structure being altered or repaired;
  - b. If the structure is totally rebuilt, the replacement structure shall conform to all the requirements of this chapter, except as to the district; provided, however, said replacement structure may not occupy an area greater than the replaced structure.
- (5) Uses and structures made nonconforming by new provisions in this chapter shall be limited to the area of use, size of operation, height, and/or size of structures as existing on the date of adoption of the ordinance from which this chapter is derived.
- (6) Uses and structures made nonconforming by prior versions of this ordinance shall be limited to the area of use, size of operation, height and/or size of structures as existing on the date of adoption of the relevant provision by the prior ordinance.

Sec. 80-90. - Operation of business from residential district prohibited.

Unless specifically permitted as a use under the applicable provision of article V of this chapter, no business or commercial enterprise may operate in a residentially-zoned district. Operation of a business or commercial enterprise shall include, but not be limited to, such activities as: having employees report to work at the property; storing commercial vehicles at the property; parking commercial vehicles at the property (other than as specifically permitted by section 80-96); conducting any manufacturing or assembly at the property; retail or wholesale sales of any sort; providing any service, maintenance or repair at the property (other than permitted home occupations); and storage of any materials, supplies, products, or components at the property. Home offices and home occupations are permitted as shown in sections 80-91 and 80-92.

Sec. 80-91. - Home offices.

Home offices are permitted in any home, allowing the occupant to work from home or to manage a business licensed as a mobile business. No customers, suppliers or vendors shall be permitted at a home office. Employees are not permitted to report to work, receive assignments, or pick up vehicles at a home office. No non-resident of the home may work in the home office (i.e., no outside employees may work in the office). Home occupations are permitted as stated in section 80-92.

Sec. 80-92. - Home occupations.

Home occupations are permitted in zoning districts as listed in article V of this chapter. No home occupation shall occupy more than 30 percent of the heated floor space of the principal use building. No separate building or structure may be constructed to house a home occupation. A home occupation must be a use that is clearly incidental and secondary to the use of the dwelling as a residence and that does not change the character thereof or reveal from the exterior that the dwelling is being used in part for other than a residence. No non-resident of the home may work in the home occupation (i.e., no non-resident employees). There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes. Such permissible occupations include, in general, such personal services such as are furnished by a musician, artist, seamstress, cook, or laundress, consultant, telecommuter, or other occupation which does not generate nonresidential traffic nor has non-occupant employees, but shall not include such uses as barbershops, beauty parlors, tea rooms, animal hospitals, animal grooming, or a wholesale, retail or manufacturing business.

Sec. 80-93. - Residential living only permitted in permanent structures.

- (a) No lot may be used for temporary or permanent residential living quarters unless a permanent dwelling unit has been lawfully erected on the lot, pursuant to the provisions of this ordinance and applicable building and safety codes. Indications that a property is being used as temporary or permanent residential living quarters include actions such as spending significant time at the location on more than one day, repeated eating and sleeping at the location, and performing other life activities at the location repeatedly.
- (b) Tents, boats, RVs and other structures that are not permitted permanent dwelling units cannot be occupied either on a permanent or temporary basis on a residential lot, except that tents may be occupied for no more than three days in any two-month period when erected in the rear yard of a permanent dwelling unit.

Sec. 80-94. - Occupancy of recreational vehicles.

- (a) No recreational vehicle shall otherwise be occupied as a temporary or permanent residential living quarter except in conformance with this section.
- (b) Recreational vehicles can be occupied as temporary dwellings as a temporary accessory use for no more than ten days in any two-month period, only if there is a permanent dwelling unit as a principal use on the lot, and only if the vehicle is parked in conformance with this article. No more than one recreational vehicle can be so occupied on the same lot.

Sec. 80-95. - Recreational vehicle parking.

Recreational vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required setback or buffer area, nor in any front-yard area. Recreational vehicles on residential property shall only be parked in the side or rear yard, within setbacks, although the Public Works Director may administratively vary this requirement if there is not sufficient room in or access to the rear or side yards. No more than two recreational vehicles shall be parked on any single residential lot.

Sec. 80-96. - Commercial vehicle parking.

- (a) No more than two commercial vehicles (trailers counted separately if separated from a tractor) shall be parked on any single residential lot, or on any lot in any residentially-zoned lot. Commercial vehicles may not be parked on any residential lot without an occupied single-family dwelling, and may not be parked on vacant residential lots.
- (b) Commercial vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required setback or buffer area. Commercial vehicles on any lot under five acres must be parked in the side or rear yard area. The Public Works Director shall be permitted to grant a hardship administrative variance to allow parking in a setback or front yard if no other room exists.
- (c) The Public Works Director shall be permitted to grant a hardship administrative variance to allow up to four commercial vehicles to park on one lot (for example, if four family members living there each drive a commercial vehicle home from work), but in no circumstance shall such variance be used to permit employees to report to a residential structure on a daily basis to pick up commercial vehicles for the company's operation.

Sec. 80-97. - Use of vehicle or trailers for storage prohibited.

Neither vehicles (whether operable or inoperable) nor trailers (whether on or off their axles) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, tractor-trailer rigs, railroad boxcars, etc. However, tractor-trailer rigs and

trailers may be used for temporary storage on property zoned C-1, I-1, or I-2, only by businesses operating on the same property. Temporary storage means no particular trailer may remain longer than three months.

Sec. 80-98. - Appearance of property.

In order to preserve the aesthetic beauty of the city, to protect against nuisances, hazards, vermin and odor, among other hazards, and to preserve the property values of surrounding property, all property in the city shall be required to comply with the following provisions:

- (1) All property (other than where explicitly permitted, such as a junk yard or salvage yard) must be free of the following: scrap metal; junked, inoperative or broken appliances (including engines and vehicles or parts of vehicles); junked, inoperative or broken equipment (such as lawn mowers, bicycles, machines); construction or demolition debris; other waste, garbage or refuse such as old tires, discarded carpet, discarded household furniture, bottles, cans, or similar; stumps, branches, dirt, and other debris from land disturbance and grading (except incident to a permit under the city soil erosion and sedimentation ordinance for the subject property and/or pursuant to lawful construction on the subject property); and household trash (except in a trash container in good condition with a lid). Such items may be kept in an enclosed building or enclosed garage erected pursuant to a building permit or otherwise lawfully permitted, but may not be kept in the open.
- (2) All property, whether residential, commercial or industrial, containing a grass lawn (for example fescue, rye, bluegrass, bermuda, zoysia or similar grasses), landscaping strips, or other landscaping must be maintained so that the grass is kept cut below the height of 12 inches, and so that shrubbery, weeds and other landscaping is kept cut to the point where no windows or doors in a structure are obscured or blocked.
- (3) Storage of lumber, dumpsters, shipping containers, wood pallets, pipe, concrete blocks, other construction material, or other commercial material, or any commercial inventory (including products for sale, use or repair in off-site businesses), or materials associated with a commercial operation, shall be prohibited on residentially-zoned or residentially-used property, unless associated with or required by a permitted use on the property (including repair or construction of a structure that is itself a permitted use, e.g., construction of a single-family residence on said property).
- (4) For violations of this section, an owner or resident of property may be given a citation, and, at the hearing on the citation, the municipal court may, in addition to other appropriate penalties under the law, order abatement, pursuant to O.C.G.A. § 41-2-5. The order of abatement may provide that in the event the owner or resident fails to correct the violation within a specified time period, the city is authorized to cause the violation to be remedied and the cost of abatement be placed as a lien against the property which lien may be collected in the same manner as judgements, utility bills and tax collections.

Sec. 80-99. - Junk, abandoned, inoperable or unregistered vehicles.

- (a) No automobile, vehicle or trailer of any kind or type without a valid license plate attached thereto shall be parked or stand on any residentially-zoned property or other zoned property unless it shall be in a completely enclosed building or on property properly zoned as a junk yard, except for such off-road vehicles which by law do not require a license plate, provided the same is in operating condition.
- (b) No automobile, vehicle or trailer of any kind or type which shall be inoperative or in a junk condition, or abandoned, shall be parked or stand on any property unless:
  - (1) It shall be in an enclosed building;
  - (2) It shall be on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or

- (3) It shall be on property lawfully occupied and used for repair, reconditioning or remodeling of vehicles in conformance with this chapter.
- (c) A vehicle in inoperative or junk condition shall include, but shall not be limited to, any automobile, vehicle, trailer of any kind or type, or contrivance, or a part thereof, the condition of which is one or more of the following:
  - (1) Wrecked;
  - (2) Dismantled;
  - (3) Partially dismantled;
  - (4) Inoperative;
  - (5) Abandoned;
  - (6) Discarded;
  - (7) Scrapped; or
  - (8) Does not have a valid license plate attached thereto.
- (d) Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.
- (e) In all instances where the owner of any abandoned, inoperative, or junk motor vehicle and/or trailer cannot be determined, or when such vehicle is abandoned on public property or a non-owner's property, such junk or abandoned motor vehicle and/or trailer shall be removed under the authority and provisions of O.C.G.A. ch. 40-11. If on public property, such vehicle may be removed after five days; if on private property, it may be removed after 30 days.
- (f) In all instances where the owner of any junk, inoperative, unregistered, or abandoned motor vehicle and/or trailer refuses to remove, enclose or register (or, if requested, refuses to give consent for the city to remove) any such vehicle or trailer currently in violation of this article, the city shall be empowered to seek an order from superior court authorizing the city to remove and dispose of such vehicle or trailer. In addition, if the vehicle or trailer is determined to be a health hazard or a nuisance, the city shall be empowered to seek an order from superior court authorizing the city to remove and dispose of such vehicle. Such orders shall be authorized if the vehicle has been in violation of this article for more than 20 days.
- (g) For purposes of repair or restoration, one inoperable and unregistered vehicle may be kept in the rear yard of a property, provided it is not visible from the street, is screened from all neighbors by a privacy fence in the rear yard, and is repaired or restored, removed, or placed in a fully enclosed building within six months. Such vehicle shall not be stored in any side yard or any setback or buffer area.

Sec. 80-100. - Storage of tires.

The storage of new or used tires on any property is prohibited unless the same are stored within an enclosed building or garage. It is illegal to discard or abandon tires on any property other than a lawful landfill.

Sec. 80-101. - Sale of autos and vehicles.

In a residential zoning district or residentially-used area, sales of autos and other vehicles from such property shall be limited to no more than six vehicles per year. No more than two such vehicles shall be parked in the front yard of any property at any one time. Any greater number of sales or vehicles displayed for sale shall constitute a commercial operation.

Sec. 80-102. - Swimming pools.

Swimming pools are permitted as accessory uses in residential zoning districts. Swimming pools are only permitted to be located in the side or rear yards of a property. All portions of a swimming pool (including the pool itself, any recirculation pumps, sumps, heaters, filtration or treatment systems, chemical tanks, or pool-related machinery) shall be set back at least ten feet from the side and rear property lines. Swimming pools shall further comply with applicable board of health regulations and the city building code ordinance. Private swimming pools (in ground or above ground), hot tubs and spas containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches from the gatepost. Above-ground pools shall have a lockable, removable ladder. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Sec. 80-103. - Display of retail goods in yards.

In the C-2 zoning district, external display of retail inventory or other goods for sale shall only be permitted within ten feet of the principal structure on the property, and only during regular business hours when the retail business is open to the public.

Sec. 80-104. - Timbering operations in nonresidential zoning districts.

Timbering operations (meaning cutting, hauling and/or harvesting timber) shall be a permitted activity in nonresidential zoning districts (that is, C-1, C-2, I-1, and I-2), provided that no timbering operations shall be permitted in the area of any required buffer listed in the relevant zoning district. Crossing the buffer perpendicularly shall be permitted, but the buffer area shall otherwise remain undisturbed.

Secs. 80-105—80-121. - Reserved.

ARTICLE V. - USE REQUIREMENTS BY DISTRICTS; SPECIAL DISTRICTS

Sec. 80-122. - Uses.

The following districts designate certain uses and special uses within each district. A use not specifically named within a district is not permitted. Any question of interpretation as to the appropriate district for a use shall be determined by the Public Works Director. The minimum lot sizes, setbacks and other area and yard requirements for each district are provided for each district.

Sec. 80-123. - R-1 Low Density Single-Family Residential District.

- (a) *Purpose.* The R-1 Residential District is established primarily to encourage the development of single-family developments, for conventional or industrialized homes. The R-1 district is a residential district.
- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).

Sec. 80-124. - R-2 Medium Density Single-Family Residential District.

- (a) *Scope and intent.* Regulations set forth in this section are the R-2 district regulations. The R-2 district is intended to provide areas for higher density single-family residential uses.



- (b) *Use regulations.* Within the R-2 district, land and structures shall be used in accordance with the Table of Permitted Uses. Any use not specifically designated as permitted shall be prohibited.
- (c) *Development standards.* See Table of Area, Yard and Height Requirements, section 80-133(b).

Sec. 80-125. - R-3 Medium Density Residential District.

- (a) *Purpose.* The R-3 Residential District is established primarily to provide for the development of smaller lot residential developments, for conventional and industrialized or attached and detached homes.
- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).

Sec. 80-126. - R-4 High Density Residential District.

- (a) *Scope and intent.* Regulations set forth in this section are the R-4 district regulations. The R-4 district is intended to provide land areas for high density apartment dwellings which will:
  - (1) Encourage attractive apartment development;
  - (2) Encourage the provision of recreation areas and facilities;
  - (3) Be located in areas of intense development near or adjacent to downtown, retail shopping, arterial and major collector streets; and
  - (4) Be located so as to provide a transition between medium to high density residential areas and nonresidential areas.
- (b) *Use regulations.* Within the R-4 district, land and structures shall be used in accordance with the Table of Permitted Uses. Any use not specifically designated as a permitted use in this section shall be prohibited.
- (c) *Development standards.* See Table of Area, Yard and Height Requirements, section 80-133(b).
- (d) *Minimum buffer requirements:* In addition to required setbacks, a 25-foot wide buffer shall be required along all property lines which abut a single-family district or use to provide a visual screen and a ten-foot buffer adjacent to all other districts other than R-4.
- (e) *Minimum open space requirements:* 20 percent of gross acreage shall be set aside as open space, and provisions shall be made for common areas within said open space for the use of residents of the development. Streets, parking areas, required yards, and required buffer zones shall not be counted as part of the minimum open space. Such area may serve as passive areas and/or developed for recreational purposes such as pools, playground equipment, walking trails, or basketball and tennis courts.
- (f) *Gable or hip roofs:* Gable or hip roofs shall have a minimum roof pitch of 6:12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.
- (g) *Other required standards:*
  - (1) Principal structures within the R-4 district shall have a minimum of 50 percent finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.
  - (2) A metal panel exterior finish product shall not be allowed on metal buildings exceeding 150 square feet in gross floor area constructed or placed on lots within the R-4 district.

Sec. 80-127. - R-5 Single-Family Manufactured Homes District.

Within R-5 single-family residential district the following uses are permitted:

- (1) One family dwellings.
- (2) Any use permitted in R-1 district provided it is served by public water and public sewer.

This district to be known as residential five (R5) as shown on the Zoning Map of Rossville Georgia is established to accommodate placement of manufactured/modular home and related facilities in a safe and healthy residential environment consistent with existing land use and density patterns.

- (a) *Intent:* It is the intent of this section to encourage the provision of affordable housing in a general residential environment by permitting the use of manufactured/modular homes meeting the definition of dwelling, single-family as defined herein, in residential five (R5) districts in which similar dwellings constructed on the site are permitted, subject to the requirements and procedures set forth herein to assure similarity in exterior appearance between such residentially designed manufactured/modular homes and dwellings which have been constructed under these and other lawful regulations on adjacent lots in the same or general area within the district R5 zoning classification.

Manufactured homes built to Housing and Urban Development (HUD) standards and meeting the definition of dwelling single-family either individually or specific model, shall be permitted in residential five districts (R,5) subject to the requirements and limitations set forth in this section which are applicable to manufactured homes and the requirements and limitations apply general to residential use in such zoning classifications or districts, including minimum lots, yard and building spacing, percentage of lot coverage, off-street parking requirements and approved foundations as described herein.

*Permitted locations:* Manufactured/modular homes, which meet the standards established in this section shall be allowed in R5 districts.

Compatibility standards for manufactured/modular homes meeting the definition of dwelling single family are as follows:

- (1) Manufactured homes qualifying as dwelling, single family shall be compared to site built and other housing in the general area within the same zoning or residential district or area. Approval shall be granted upon the finding that the manufactured/ modular home is substantially similar in size, siding material, roof material, foundation and general aesthetic appearance to site built housing which may be permitted in the same general area under this section or proposed development in the same zoning district.
- (2) All towing devices, wheels, axles and hitches must be removed.
- (3) At each exit door there must be a landing that is a minimum of 36 inches by 36 inches.
- (4) Minimum width 24-feet.
- (5) Minimum square footage required by the district in which located.
- (6) The roof shall have a minimum 2:12 roof pitch and shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass or metal tiles, slate, built up gravel material or other materials approved by the planning director.
- (7) The exterior siding materials shall consist of wood, masonry, concrete, stucco, masonite, metal or vinyl lap designed for such purposes or other materials of like appearance.
- (8) Be attached to a permanent foundation.
- (9) Be constructed according to standards established either by the state minimum standard codes as amended from time to time or the standard building code if locally adopted or the National Manufactured Housing Construction and Safety Standards Act or the State of Georgia Industrialized Building Act.
- (10) Manufactured homes and modular homes placed in residential five (R5) districts shall meet this minimum compatibility standards set forth in this section.

- (11) The planning director may approve deviations from one or more of the developmental or architectural standards provided herein on the basis of a finding that the materials to be utilized or the architectural style proposed for the dwelling will be compatible and harmonious with existing structures in the vicinity.

- (b) Additional requirements applicable to R5 district.

No more than one dwelling or manufactured/modular home may be placed on a lot or parcel of land.

*Permits:* No person, firm, or corporation shall erect, locate, or construct a dwelling in the City of Rossville without first obtaining a building permit for said structure. No manufactured home shall be placed rented, occupied or used in any manner whatsoever in the City of Rossville Walker County, without an appropriate placement permit. It shall be unlawful for any manufactured home in the City of Rossville without a valid placement permit being clearly visible on said manufactured home.

#### Sec. 80-128. - C-1. General Business District.

- (a) *Purpose.* The C-1 district is established primarily to encourage the development of general commercial uses.
- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).
- (c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 80-152.
- (d) *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setback shall be ten feet. If the property is abutting the same zoning district, side and rear setbacks shall be zero, but fire code regulations must still be met.

#### Sec. 80-129. - C-2 Business District.

- (a) *Purpose.* This ordinance intends that C-2 neighborhood business districts of Rossville, Georgia, shall be of such character and in such locations that they provide primarily convenience shopping facilities for residents of nearby residential areas. It is intended that these uses be located in compact centers with adequate lot depth and parking facilities so that the adverse in carrying capacity of the streets they front may be minimized.

Within C-2 neighborhood business districts, the following uses are permitted:

- (1) Convenience shops customarily serving residential neighborhoods.
- (2) Banks, including drive-ins.
- (3) Gasoline service stations or auto service stations, including underground storage tanks, provided that all structures are placed not less than 30 feet from any property line, and provided all pumps are set back at least 20 feet from the street right-of-way line, the number of curb breaks for each establishment does not exceed two for each 100 feet of frontage, each having a width of not more than 30 feet and located not closer than 20 feet to a street intersection. When a station abuts a residential district it shall be separated from such district by a buffer strip at least six feet in height.
- (4) Restaurants, including drive-ins, provided that when it abuts a residential district it shall be separated from such district by a six-foot high buffer strip and having no lights shining directly on residential districts.
- (5) All uses permitted in C-1 central business district.
- (6) When a use in this section abuts a residential district, it shall be separated from such district by a buffer strip at least six feet in height.

- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).
- (c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 80-152.
- (d) *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setback shall be ten feet. If the property is abutting the same zoning district, side and rear setbacks shall be zero, but fire code regulations must still be met.

Sec. 80-130. - I-1 Light Industrial District.

- (a) *Purpose.* The I-1 district is established primarily to encourage the development of light industrial uses, such as light manufacturing and wholesale distribution.
- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).
- (c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 80-152.

Sec. 80-131. - I-2 Heavy Industrial District.

- (a) *Purpose.* The I-2 district is established primarily to encourage the development of heavy industrial uses, including heavy manufacturing.
- (b) *Area, yard, height and buffer requirements.* See Table of Area, Yard and Height Requirements, section 80-133(b).
- (c) *Buffers.* Buffer standards, and regulations regarding use and crossing of buffers, are located in section 80-152.

Sec. 80-132. - PUD Planned Unit Development District.

- (a) *Purpose.* The PUD district is established primarily to encourage the development of mixed use developments, containing both residential and commercial property. PUD is considered a residential district where residential uses are placed.
- (b) *Area, yard, height and buffer requirements.* The following requirements apply in the PUD district and shall be shown on the site plans:
  - (1) Minimum lot width at street right-of-way for individual lot: 50 feet, 25 feet on cul-de-sac.
  - (2) Front yard setback for individual lot: 25 feet.
  - (3) Side yard setback for individual lot: Ten feet.
  - (4) Rear yard setback for individual lot: 25 feet.
  - (5) External setback: 25 feet (i.e., all buildings to be at least 25 feet from external boundaries of PUD development).
  - (6) Maximum building and structure height: 50 feet.
  - (7) *Buffers:* Buffers in PUD districts shall be set according to the zoning district that corresponds to the proposed use and density, and shall be determined at the time the PUD status is granted by rezoning.
- (c) *Location.* A planned unit development district shall be located only in an area where public utilities are available. A PUD must be served by public water and sewer. Said district may consist of various residential dwellings, commercial or industrial sites or combinations thereof. A PUD is not intended to be developed as solely residential lots.

- (d) *Required information.* The following shall be filed with the application for rezoning, in addition to any information otherwise required of all rezoning applications. Site plans are required to be filed, and the PUD must be conditioned to the site plan at the rezoning hearing. Concept plans with only general delineations of the location of lots and structures are unacceptable:
- (1) The proposed name of the PUD;
  - (2) An aerial photograph of the area and vicinity;
  - (3) A complete and accurate legal description of the proposed PUD property;
  - (4) A tabulation of total acreage of the site designated for various uses, i.e., parking, structures, streets, parks, playgrounds and utilities;
  - (5) A site plan showing all proposed lots in the PUD and proposed building densities (units per acre);
  - (6) Proposed circulation pattern of the public streets and private driveways;
  - (7) Parking layout which complies with the provisions of this chapter concerning off-street parking;
  - (8) All access points to the same arterial streets to be located and which shall have been approved by the road department and/or the state department of transportation;
  - (9) Detailed landscaping plans, including and designating types of buffer or landscape screens placed between abrupt changes of land uses. Buffers shall be required consistent with the most comparable zoning district for the proposed uses;
  - (10) Signage plan, showing all proposed signs (providing height, area, type and location) for commercial uses and businesses; and
  - (11) Site plan showing a minimum of ten percent of the PUD shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.
- (e) *Abandonment.* Whenever the developer or owner of an approved planned unit development has not broken ground on the development within one year of the mayor and council's approval of the plan, the plan shall be deemed abandoned and shall require resubmittal and approval subject to the terms of this chapter before any further land disturbance activities may take place or any further permits may be issued. Whenever the developer has failed to break ground on a phase of a planned unit development for three years from the date of the plan's approval, the plan shall be deemed abandoned as to that phase and shall require resubmittal and approval subject to the terms of this chapter as to that phase before land disturbance activities may occur in the phase or further development permits in the phase may issue.

Sec. 80-133. – Tables of Permitted Uses and Area, Yard and Height Requirements.

(a) Table of Permitted Uses

The following Table of Permitted Uses is hereby adopted. No principal use shall be established on any property unless it is shown as permitted, by right or subject to special use approval, for the applicable zoning district on the Table of Permitted Uses. A "P" on the Table of Permitted Uses means that the listed use is permitted in the particular zoning classification. An "SU" on the Table of Permitted Uses means that the use is permitted in the particular zoning district as a special use.

Table of Permitted Uses

Use	R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>AGRICULTURAL</b>										
<b>Agriculture and Forestry</b>										
Commercial greenhouse or plant nursery							P	P	P	P
Temporary or portable sawmill								P	P	
Urban, community garden	P	P	P	P	P	P	P	P	P	P
<b>Animal Oriented Agriculture</b>										
Livestock sales pavilion							SU			
Riding academies or stables	SU									
<b>RESIDENTIAL</b>										
<b>Dwellings</b>										
Dwelling, manufactured home					P					
Dwelling, multi-family				P	P					
Dwelling, townhouse			P	P						
High-rise apartment					P	SU	SU			P
Dwelling, single-family (attached)			P	P	P					
Dwelling, single-family (detached)	P	P	P	P	P					
Dwelling, two-family			P	P	P					
Dwelling, single-family, accessory (guesthouse, in-law suite)	P									
Home occupation	P	P	P	P	P					
Live/work unit						P	P	P		P
<b>Housing and Lodging</b>										
Bed and breakfast				P	SU					
Boarding/Rooming house						SU	SU			
Convents or monasteries				P						
Dormitory associated with college or school				P						
Extended stay hotel/motel						SU	SU			
Fraternity house or sorority house associated with college or school				P						
Hotel/Motel						SU	SU			P
Nursing care facility or hospice				P	P	P	P			
Personal care home, community, 7 or more				P		P	P			
Personal care home, group, 6 or less			P	P		P	P			
Child caring institution, group, 4-6		P	P	P		P	P			
Child caring institution, community, 7 or more						P	P			
Shelter for homeless persons, 7-20				SU						
<b>INSTITUTIONAL/PUBLIC</b>										
<b>Community Facilities</b>										
Cemetery, columbarium, mausoleum							SU			
Cemetery, columbarium, mausoleum, accessory to place of worship	P	P	P	P	P	P	P			
Club, order or lodge, fraternal, non-commercial						P	P			
Coliseum or stadium/not associated with church or school						P				
Funeral home, mortuary							P			
Golf course, public or private	P									
Government facilities	P	P	P	P	P	P	P	P	P	P
Hospital or accessory ambulance service							P			
Library or museum			P	P	P	P	P			P
Recreation club				P		P	P			
Neighborhood or subdivision clubhouse or amenities	P	P	P	P	P					P
Places of worship	P	P	P	P	P	P	P			

Use	R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>INSTITUTIONAL/PUBLIC</b>										
Swimming pools, commercial				P		P	P			
Tennis courts, swimming pools, play or recreation areas, community	P	P	P	P		P	P			P
<b>Education</b>										
Colleges, universities, research and training facilities						P	P	P	P	
Private educational services, home occupation	P	P	P	P	P					
Private kindergarten, elementary, middle or high schools		P	P	P			P			
Vocational schools						P	P	P	P	
Specialized schools						P	P	P	P	
<b>COMMERCIAL</b>										
<b>Automobile, boat and trailer sales and service</b>										
Automobile or truck rental or leasing facilities							P	P	P	
Automobile brokerage							P	P	P	
Auto recovery, storage								P	P	
Automobile repair or maintenance, minor							P	P		
Automobile repair, major								P	P	
Automobile sales or truck sales							P	P	P	
Automobile service stations							P	P	P	
Automobile upholstery shop							P	P		
Automobile wash/wax service							P			
Boat sales							P	P		
Retail automobile parts or tire store							P	P		
Trailer or RV salesroom and lot							P	P		
<b>Office</b>										
Accounting office						P	P			
Building or construction office							P	P	P	
Building, landscape, heavy construction contractor office (material, equipment, storage)							P	P	P	
Engineering or architecture office						P	P			
Finance office or banking						P	P			
General business office						P	P			
Insurance office						P	P			
Legal office						P	P			
Medical office						P	P			
Real estate office						P	P			
<b>Recreation and Entertainment</b>										
Adult entertainment establishments								P		
Drive-in theater							P	P		P
Fairground or amusement park	SU						SU			
Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors)						P		P		
Nightclub or late night establishment						P				
Outdoor recreation (miniature golf, batting cages, tennis, Go-cart and other outdoor activities)							P	P		P
Special events facility						P	P	P	P	P
Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building						P		P		
<b>Retail</b>										
Alcohol outlet, retail sales, primary or accessory							P			
Apparel or accessories store						P	P			P
Art gallery						P	P			P
Book, greeting card, or stationery store						P	P			P

Use	R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>COMMERCIAL</b>										
Camera or photography						P	P			P
Computer or computer software store						P	P			P
Convenience store							P			
Farm or garden supply store							P	P	P	
Farmer's market							P	P		P
Florist						P	P	P		
Fortune Telling								P	P	
Specialty food stores (e.g., coffee, ice cream)						P	P			P
Fuel dealers, manufacturers or wholesalers								P	P	
Gift, novelty, or souvenir store						P	P			
Gold buying, precious metals						P	P			
Grocery stores						P	P			P
Hardware store or other building materials store						P	P	P	P	
Hobby, toy or game store						P	P			
Jewelry store						P	P			
Music or music equipment store (retail)						P	P			
Liquor store							P			
Office supplies and equipment store						P	P			
Pawn shop, title loan, check cashing other than bank/credit union, payday lending							P			
Pet supply store						P	P			
Pharmacy or drug store						P	P			
Radio, television or consumer electronics store						P	P			
Retail, 5,000 sf or less						P	P	P		
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage								P		
Sporting goods or bicycle sale						P	P			
Tattoo Parlor and Piercing Studio							P			
Thrift, secondhand, antique store							P			
Tobacco / Cigar / Vape / E-cig store							P			
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage						P	P	P		
<b>Restaurant/Food establishments</b>										
Brewpub/Beer Growler						P	P			
Catering establishments						P	P			
Restaurants						P	P			
Restaurants (non-drive-thru)						P	P			
Restaurants with a drive-thru configuration						P	P			
<b>Transportation</b>										
Bus or rail stations or terminals for passengers								P	P	
Heliport								P	P	
Parking, automobiles, commercial lot or garage						P	P	P		
Parking, commercial vehicles								SU	SU	
Taxi, ambulance or limousine service, dispatching or storage.							P	P		
<b>Services</b>										
Adult day care center - 7 or more							P			
Adult day care facility - up to 6							P			
Animal hospitals, veterinary clinic							P			
Animal shelter/rescue center							P	P		
Banks, credit unions or other similar financial institutions						P	P			
Barber shop/ beauty salon or similar establishments						P	P			
Coin laundry							P			
Dog day care							P			



Use	R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>COMMERCIAL</b>										
Dog grooming						P	P			
Dry cleaning agencies, pressing establishments, or laundry pick-up stations							P	P		
Fitness center						P	P			
Health Spa						P	P			
Kennel, breeding or boarding								P		
Landscape business							P	P		
Massage Establishment							SU			
Mini-warehouse							P	P		
Outdoor storage, commercial									P	
Photoengraving, typesetting, electrotyping						P	P	P		
Photographic studios						P	P	P		
Plumbing, HV/AC equipment establishments with no outdoor storage							P	P		
Publishing or printing establishments							P			
Quick copy printing store							P	P		
<b>Services, Medical and Health</b>										
Ambulance service or emergency medical services, private							P			
Health services clinic						P	P			
Home healthcare service							P			
Kidney dialysis center							P			
Medical or dental laboratories						P	P			
<b>Services, Repair</b>										
Furniture upholstery or repair; home appliance repair or service							P	P		
Personal service, repair (watch, shoes, jewelry)						P	P	P		
<b>INDUSTRIAL</b>										
Alcohol or alcoholic beverage manufacturing						P	P	P		P
Alternative energy production								P	P	
Automobile/truck manufacturing									P	
Brick, clay, tile, or concrete products terra cotta manufacturing								SU	SU	
Building materials or lumber supply establishment								P	P	
Cement, lime, gypsum, or plaster of Paris manufacturing									SU	
Compressed gas fuel station									P	
Chemical manufacture, organic or inorganic									P	
Contractor, heavy construction, outside storage								P	P	
Crematoriums									SU	
Distillation of bones or glue manufacture									SU	
Dry cleaning plant									SU	
Dye works									SU	
Explosive manufacture or storage									SU	
Fabricated metal manufacture								P	P	
Fat rendering or fertilizer manufacture									SU	
Fuel dealers, manufactures or wholesalers									P	
General aviation airport									SU	
Heavy equipment repair service or trade									P	
Ice manufacturing plant								P	P	
Incidental retail sales of goods produced or processed on the premises							P	P	P	
Incineration of garbage or refuse when conducted within an enclosed plant									SU	
Industrial, heavy, other									SU	
Industrial, light, other								SU	SU	

Use	R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>INDUSTRIAL</b>										
Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal								SU	SU	
Leather manufacturing or processing									P	
Light manufacturing								P	P	
Manufacturing, heavy									P	
Manufacturing operations not housed within a building									SU	
Mines or mining operations, quarries, asphalt plants, gravel pits or soil pits									SU	
Outdoor storage, industrial									P	
Paper or pulp manufacture									SU	
Petroleum or inflammable liquids production, refining									SU	
Radioactive materials: utilization, manufacture, processing or emission									SU	
Railroad car classification yards or team truck yards									SU	
Recovered materials facility wholly within a building								SU	SU	
Recovered materials processing wholly within a building								SU	SU	
Recycling collection									SU	
Repair/manufacture of clocks, watches, toys, electrical appliances, electronic, light sheet metal products, equipment, machine tools, or machinery not requiring the use of press punch over 100 tons rated capacity or drop hammer							P	P	P	
Research, experimental or testing laboratories								P	P	
Rubber or plastics manufacture									SU	
Salvage yard (Junkyard)									SU	
Solid waste: general disposal, landfill, private industry disposal, handling facility, thermal treatment technology or hazardous/toxic materials including radioactive materials									SU	
Smelting: copper, iron, zinc, or ore									SU	
Storage yard, except vehicle								SU	SU	
Storage yard for damaged or confiscated vehicles								SU	SU	
Tire retreading or recapping									SU	
Towing or wreckage service								P	P	
Transportation equipment manufacture									P	
Transportation equipment storage or maintenance (vehicle)									SU	
Truck stop or terminal								SU	SU	
Vehicle storage yard								SU	SU	
Warehousing or Storage								P	P	
<b>TELECOMMUNICATION</b>										
Telecommunication tower	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU

(b) Table of Area, Yard and Height Requirements

Area, Yard and Height Requirements

District	Minimum Lot Size			Minimum Front Yard Setback From Right-of-Way	Minimum Side Yard in Feet	Minimum Rear Yard in Feet	Maximum Height in Feet
	Area in Sq. Ft.	Density Sq. Ft./D.	Lot Width in Feet				
R-1, with private water and private sewer	25,000	25,000	100	10	10	30	35
R-1, with public water and private sewer or private water and public sewer	20,000	20,000	100	10	10	30	35
R-1, with public water and public sewer	17,500	17,500	90	10	10	30	35
R-2	9,000	5,000	80	10	10	25	35
R-3	8,000	4,000	70	10	10	25	35
R-4	7,000	3,500	60	25	10	25	35
R-5, with public water and public sewer	7,000	3,500	60	25	10	25	35
C-1	---	---	---	5	None	None	None
C-2	---	---	---	20	None	None	35
I-1	---	---	---	50	15	None	55
I-2	---	---	---	50	15	None	55
PUD – Per approved site plan							35*

\* Unless approved site plan shows otherwise

- (c) *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on nonresidential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerals, and similar structures.
- (d) *Nonresidential uses and accessory uses.* Nonresidential uses in residential districts shall be set back at least 50 feet from all property lines, shall be screened by a 25-foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all nonresidential uses shall be provided in accordance with the city development regulations.

Sec. 80-134. – Central Business Overlay District.

- (a) A central business overlay district is hereby created to encourage a more urban and aesthetically-pleasing downtown development pattern, to provide for pedestrians, to encourage access to businesses and the amenities of downtown, and to facilitate infill development and public use of the downtown area. The area of the central business overlay district is designated on the official zoning map. Where there are conflicts between the requirements of this ordinance pertaining to the central business overlay district and other sections of the zoning ordinance, the regulations pertaining to the central business overlay district will apply. Notwithstanding the foregoing, the requirements of this section shall not apply to properties within the district so long as they are used for single-family residential purposes permitted within their underlying zoning district.
- (b) Off-Street and on-street automobile parking. Within the central business overlay district, when expanding an existing building more than 25% of its current square footage, building new construction, or expanding existing parking or asphalt, the following parking regulations shall apply:

1. retail sales and services shall be permitted up to a 30% reduction in parking requirements within the central business overlay district;
  2. where permitted, on-street parking directly adjacent to the lot may be counted towards parking requirements, provided that no on-street parking spot can be counted for two different properties;
  3. a mixed use development containing residential and commercial uses on the same lot may count an individual spot towards each use's parking requirement;
  4. a minimum of 1 bicycle rack shall be provided per every 2 residential units;
  5. a minimum of 1 bicycle rack shall be provided per every 5,000 square feet of leasable area for non-residential uses; and
  6. a shared parking agreement may cover up to 100% of required parking and bicycle parking.
- (c) Setbacks. Within the central business overlay district, the C-1 District setbacks shall be measured from property line or edge of curb and:
1. minimum front-yard setback shall be 5 feet from the edge of curb;
  2. maximum front-yard setback from curb shall be 5 feet; however, a maximum setback of 15 feet may be permitted if the use is an attached single-family dwelling or an intentional public space or pedestrian activity space is provided between the building and sidewalk such as a park, plaza, outdoor dining, or similar;
  3. a proposed building may match one of the adjacent front-yard setbacks if those setbacks establish a dominant pattern (more than 30%) on the same block meeting the intent of this section; and
  4. awnings and balconies may protrude into the public right-of-way on non-arterial streets with a maximum protrusion of 4 feet. Any intrusion must provide at least 8 vertical feet of clearance above a sidewalk. No intrusion into the right-of-way may be allowed into the airspace of vehicle parking or traveling lane.
- (d) Site Plan Requirements. Within the central business overlay district, any application for rezoning or for a building permit for new construction shall include a site plan which contains the information identified below. The site plan shall be reviewed by the planning commission at a public meeting and approved if it is in compliance with the provisions of this ordinance. Any construction or development subject to an approved application shall be consistent with the site plan presented.
1. site plans shall include the area and location of any new structures proposed to be constructed and shall identify proposed uses of the property if the application is granted;
  2. site plans shall include approximate location, size, and dimensions of existing structures intending to stay and also structures to be removed or demolished;
  3. site plans shall show property lines that bound the tract of land to be developed;
  4. site plans shall show vehicular and pedestrian points of ingress and egress, existing and proposed;
  5. site plans shall show landscape buffers as required by ordinance or otherwise proposed;
  6. site plans shall show any existing or proposed sidewalks;
  7. site plans shall show approximate parking area design/redesign, including number of spaces;
  8. site plans shall show location of any proposed dumpsters;
  9. site plans shall include a legend, north arrow, graphic scale, total area, and the number of residential units proposed if applicable; and,
  10. site plans shall include information necessary to show compliance with the requirements of this section.

- (e) **Building Frontage.** Building frontage refers to what percentage of the frontage of a lot is to be filled with a building or built feature. When expanding an existing building more than 25% of its current square footage or building new construction, the following building frontages shall apply:
1. minimum building frontage of 80% of lot frontage with a building façade. Courtyards and other such defined open spaces shall count towards minimum building frontage requirements when either is open to the public or is screened in a manner which protects the public realm and uses materials as defined in section (h) below;
  2. building frontage cannot be blank (lacking windows, doors, or other ornamentation) for more than 20 linear feet;
  3. buildings shall have their principal pedestrian entrance along a public street. When on a corner, the arterial road shall be the determined road for principal pedestrian entrances. When on a corner of two similar streets, the applicant may choose which street to locate principal pedestrian entrance on, or locate the entrance on the corner itself; and
  4. frontage without a building façade shall include a screenwall built to align with the building façade with not more than 2 foot offset. Screenwalls shall be between 3 feet and 5 feet in height. Screenwalls may have an opening a maximum of 25 feet to allow vehicular and pedestrian access.
- (f) **Parking and Service.** When expanding an existing building more than 25% of its current square footage, building new construction, or expanding existing parking or asphalt, the following parking requirements shall apply:
1. off-street parking shall be located in the rear, side or internal to a structure;
  2. a net increase in the number of curb-cuts shall not be permitted along an arterial street;
  3. shared access driveways are encouraged as are shared parking agreements where the parking is within 500 feet of the site;
  4. all dumpsters, service areas and loading areas shall be entirely screened from the public right-of-way excluding alleys;
  5. any parking area which is visible from a public right-of-way, which is not an alley, shall be buffered using fences, planters, landscaping or other suitable materials such that minimal light, noise, and exhaust spill onto the public realm;
  6. trash and recycling collection and other service areas must be located to the side or rear of buildings; and
  7. all drive-thru areas, including, but not limited to, menu boards, stacking lanes, ordering boxes, and drive-up windows must be located to the side or rear of the principal building. Drive-thru windows and lanes may not be placed between a public street (not including an alley) and the associated building.
- (g) **Building massing and height.** When expanding an existing building more than 25% of its current square footage or building new construction, the following requirements shall apply:
1. the first floor of any new construction shall have a floor-to-floor (or floor-to-roof) height of at least 16 feet;
  2. buildings which are new construction shall have a maximum building height of 52 feet;
  3. buildings which are new construction and have first floor entrances 2 feet over grade or higher must provide either a 5 feet deep stoop or porch. Steps cannot be counted in this 5 feet nor can they encroach into the right-of-way;
  4. new construction of a building shall provide that mechanical equipment is not visible from adjoining streets or public parks. Rooftop equipment shall be concealed by a parapet or screened architecturally with materials or elements consistent with the building design and designed to minimize its overall impact; and,

5. buildings of new construction with a wall facing a public street or park and being over 75 feet in length shall be visually broken down by articulating the building façade. Change in articulation shall be set back a minimum of 16 inches from the rest of the façade and occur a minimum of once every 50 feet of building façade.
- (h) Materials. When expanding an existing building more than 25% of its current square footage, building new construction, or replacing existing fencing, the following requirements shall apply:
1. fence materials are limited to masonry, concrete, stucco, wood, and metal, excluding chain link;
  2. storefront cladding materials at ground level shall be stone, brick, concrete, metal, glass, and/or wood;
  3. accessory structures shall use the same or similar materials, color and style of the primary structure's façade if the accessory structure is visible from a public right-of-way;
  4. accessory structures shall use the same or similar materials, color, and style of the primary structure's façade if visible from a public way;
  5. buildings shall create desirable pedestrian environments between the buildings and adjacent streets through clear and visible orientation to the streets; and,
  6. no security-type roll up metal doors shall be permitted fronting a street or public park.
- (i) Signage. Within the central business overlay district, the following requirements apply:
1. signage shall be located only in the sign band or be a pedestrian sign;
  2. the sign band is a band along the façade of a building facing a street located between the first and second stories not to exceed 2.5 feet in vertical height. A sign within the sign band shall not intrude into the public right-of-way;
  3. the pedestrian sign is a hung sign attached perpendicular to the façade with a maximum size of 8 square feet. There may be no more than one pedestrian sign per separate first floor use in each building façade; and,
  4. any pedestrian sign which protrudes into the right-of-way must provide at least 8 vertical feet of clearance above the sidewalk, and must not be located above lanes of traffic or vehicle parking.
- (j) Within the central business overlay district, the following uses are permitted:
1. retail trade, such as general merchandise, food, building materials, hardware, apparel, furniture, drugs, jewelry, books, stationery, etc. In general, any retail business or service establishment, including the making of articles sold at retail on the premises provided such manufacturing is incidental to the retail business or service, occupies less than 40 percent of the floor area, and employs no more than five persons;
  2. retail services, such as banks, insurance, real estate business, laundering, beauty and barber services, apparel repair, advertising services, medical and health services, governmental, education and other miscellaneous services;
  3. hotels;
  4. restaurants, cafés, and other eateries;
  5. professional offices;
  6. dwelling, live-work;
  7. single-family attached dwellings (no more than 6 attached units per single massed building);
  8. multi-family dwellings (900 sf minimum unit size);
  9. artisan manufacturing and craft studios;

10. art galleries;
  11. sidewalk sales and tent sales are allowed only as temporary events accessory to permitted retail uses and shall be conducted no more than 14 days within a calendar year. The public right-of-way shall not be obstructed; and
  12. health care service, provided that hours of operation shall not exceed 8:00 a.m. to 7:00 p.m.
- (k) Within the central business overlay district, the following uses are prohibited:
1. gas stations or service stations;
  2. auto dealerships;
  3. auto repair / detailing shops;
  4. car washes;
  5. parking lot, except where accessory to a use permitted by this ordinance that is on the same lot or an adjacent lot; and,
  6. warehousing or outdoor storage.

Secs. 80-135—80-151. - Reserved.

ARTICLE VI. - BUFFER REQUIREMENTS

Sec. 80-152. - Required buffers.

- (a) *Buffers.* A buffer area shall be defined as that portion of a lot set aside for separation or screening purposes, pursuant to the applicable provisions of this article, to separate different use districts and or uses on one property from uses on another property of the same use district or a different use district. Transitional buffers are buffers required between dissimilar zoning districts.
- (b) *Buffer requirements.*

*Table III. Minimum Required Buffers*

The buffers listed in this section will apply as follows (measured in feet):

		<b>Adjacent Property</b>									
		R-1	R-2	R-3	R-4	R-5	C-1	C-2	I-1	I-2	PUD
<b>Property Being Developed</b>	R-1	---	---	---	15	15	25	25	50	50	25
	R-2	---	---	---	15	15	25	25	50	50	25
	R-3	---	---	---	15	15	25	25	50	50	25
	R-4	15	15	15	---	---	---	---	50	50	25
	R-5	15	15	15	15	---	15	15	50	50	25
	C-1	25	25	25	15	15	---	---	---	---	25
	C-2	25	25	25	15	15	---	---	---	---	25
	I-1	50	50	50	50	50	25	25	---	---	50
	I-2	50	50	50	50	50	25	25	---	---	50
	PUD	50	50	50	15	15	---	---	50	50	---

- (c) *Special exemptions.* The following special exceptions apply to buffers and control over general buffer provisions:

- (1) When property zoned C-1 or C-2 is separated by a public road from residentially-zoned property, no buffer shall be required.
- (d) *Buffer standards.* Buffers should be sufficient to provide some screening or protection to neighboring uses, where required by the use and nature of the surrounding area. The particular standards for a specific buffer depend on the nature of the proposed use and the character of the surrounding area. The Public Works Director shall make a determination as to the type of buffer required, following the procedure of subsection (e) of this section.
- (1) The Public Works Director shall have the following discretionary options regarding the standards imposed on a particular buffer and may impose some or all of the following requirements:
    - a. Buffers may be required to be left in their natural state with the preexisting vegetation intact.
    - b. Buffers may be required to be planted or vegetated with fast growing trees and shrubs (for some or all of the width of the required buffer), in species and quantities to be determined by the Public Works Director.
    - c. Open field buffers may be left as open space.
    - d. Roads, rights-of-way and streams may be counted towards buffer requirements, or may be left as open space.
    - e. The Public Works Director may, in addition or in lieu of other requirements, require a fence be erected.
  - (2) Buffers shall be undisturbed, except that buffer areas may be used for sewer and other utility easements, detention ponds, access roads and fences may be erected in buffer areas.
  - (3) No structures may be erected in buffers, and buffer areas shall be graded or disturbed only when absolutely necessary. Buffers shall be crossed in such a fashion to minimize incursion into the buffer (i.e., close to perpendicularly). Where possible, buffers shall be restored to an opaque standard after being crossed, and BMPs, as required by the city development regulations (and soil erosion and sedimentation control ordinance), shall be followed at all times.
  - (4) The Public Works Director shall have the authority to administratively vary all requirements in this section.
- (e) *Procedure.* In the event a development is one that requires buffers, the developer shall inform the Public Works Director of the proposed use and provide information about the size of the operation, dimensions of the building, the planned hours of operation, security lighting and other lighting issues, anticipated traffic flow of customers, suppliers and deliveries, and any other information as required by the Public Works Director. The Public Works Director shall review the surrounding area and the uses and zoning of surrounding property. The Public Works Director shall then determine the appropriate buffering standards under this section, considering the following criteria:
- (1) The nature of the use and all the information provided about the use and its potential nuisance impact on the neighboring and surrounding properties;
  - (2) The existing and adjacent uses that may already impose similar negative impacts on adjoining property;
  - (3) The existing dissimilar uses of surrounding property and the current zoning of the surrounding property;
  - (4) The location of any nearby residences; and
  - (5) The existence of any streams, roads or other rights-of-way, the natural terrain, and the existing topography that may provide buffering.



Secs. 80-153—80-173. - Reserved.

#### ARTICLE VII. - DETAILED REGULATIONS FOR SPECIFIC USES

Sec. 80-174. - Junk yards; salvage yards; scrap yards.

Any junk yard (including salvage yards and scrap yards), whether preexisting or new, shall maintain a 50-foot opaque buffer. Any stacking of inoperable, crushed or otherwise damaged vehicles shall only be permitted in a junk yard. Impound lots, towing services and similar businesses shall be permitted to retain junk, inoperative or abandoned vehicles for a maximum of 120 days before disposal; long-term or permanent storage of such vehicles shall only be permitted in a junk yard.

Sec. 80-175. - Cemeteries.

- (a) *Cemeteries.* Cemeteries are burial grounds, generally where multiple burial plots are sold or provided for burial of persons beyond the immediate family. Cemeteries are permitted as accessory uses to churches. All cemeteries shall have a 25-foot vegetative buffer where adjacent to any residentially-zoned or used property.
- (b) *Marking and boundaries.* All family plots and cemeteries must be marked on plats and surveys of property, and if not clearly ascertainable, the boundaries must be marked by fencing or other monuments or markers. All abandoned or historic cemeteries must be maintained by the property owner.
- (c) *Family cemeteries.* The establishment of private family cemeteries within the city is not permitted.

Sec. 80-176. - Hotels and motels.

All new hotels and motels, or expansions of existing hotels and motels, shall have internal corridors only, and rooms for guests shall only be accessible from the interior of the structure. All hotels and motels shall have lighting installed and operational to fully illuminate all parking areas. All hotels and motels shall have fully functional telephones in all rooms open to guests. Notwithstanding the height limitations of the underlying zoning district, hotels may be constructed up to a maximum height of 100 feet.

Secs. 80-177—80-205. - Reserved.

#### ARTICLE VIII. - MANUFACTURED HOMES

Sec. 80-206. - Purpose.

The purpose of this article is to ensure that manufactured homes are installed on a site according to applicable federal and manufacturers' requirements; that manufactured homes are architecturally compatible with single-family residences and other land uses in the city currently and consistent with the mayor and city council's vision for future development in the city; and that pre-owned manufactured homes are in a safe and sound condition when they are relocated into the city.

Sec. 80-207. - 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:

*Applicant* means any person seeking to install a pre-owned manufactured home in the incorporated area of the city.

*Architectural features* means ornamental or decorative features attached to or protruding from an exterior wall, including cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

*Bay window* means a window assembly whose maximum horizontal projection is not more than two feet from the vertical plane of an exterior wall and is elevated above the floor level of the home.

*Building inspector* means the person appointed, employed, or otherwise designated as the director of planning, permits and inspections; the city building official or any of his assistants.

*Certificate of occupancy* means a document issued by the building inspector certifying that a manufactured home is in compliance with applicable requirements set forth by this article and indicating it to be in a condition suitable for residential occupancy.

*Compatibility* means, with regard to buildings, achieving harmony in appearance of architectural features in the same vicinity.

*Dormer* means a window projecting from a roof.

*Eave* means the projecting lower edges of a roof overhanging the wall of a building.

*Install* means to construct a foundation system and to place or erect a manufactured home on such foundation system. The term "install" includes, without limitation, supporting, blocking, leveling, securing, or anchoring such manufactured home and connecting multiple or expandable sections of such manufactured home.

*Jurisdiction* means the incorporated area of the city.

*Pre-owned manufactured home* means any manufactured home that has been previously used as a residential dwelling and has been titled.

Sec. 80-208. - Installation permit and certificate of occupancy required.

- (a) No manufactured home shall be installed on any site without first obtaining an installation permit. An installation permit shall not issue unless the building inspector determines that:
  - (1) The site meets the requirements of the city's ordinance for the location of manufactured housing;
  - (2) The manufactured home complies with federal and state requirements applicable to manufactured housing; and
  - (3) The manufactured home, once installed, will comply with the provisions of this article.
- (b) No manufactured home shall be occupied without a certificate of occupancy. The building inspector shall not issue a certificate of occupancy for a manufactured home unless it has been installed in compliance with federal and state laws and regulations, manufacturers' instructions, and unless it is in conformity with all the provisions of this article.

Sec. 80-209. - Installation requirements.

- (a) *Hauling mechanisms removed.* The transportation mechanisms, including wheels, axles, and hitch, must be removed prior to occupancy.
- (b) *Installation regulations.* The manufactured home shall be installed in accordance with the installation instructions from the manufacturer, as appropriate.
- (c) *Approved septic system.* Each manufactured home shall be connected to a public sanitary sewer system, community sewerage system, or on-site septic system with capacity available as approved by the health officer.
- (d) *Foundation.* The manufactured home shall be placed on a permanent foundation.

- (e) *Masonry skirting.* The entire perimeter area between the bottom of the structure of each manufactured home and the ground, including stairways, shall be underpinned with masonry that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.
- (f) *Exterior finish.* The exterior siding of the manufactured home shall consist of wood or hardboard siding material.
- (g) *Roof pitch and materials.* The manufactured home shall have a pitched roof with a slope of at least five feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, or asphalt shingle material.
- (h) *Width and square footing.* The manufactured home shall consist of two fully enclosed parallel sections and a total width of at least 20 feet. It shall be at least 1,200 square feet in conditioned living space.
- (i) *Covered porch.* A covered porch or deck shall be provided facing the front yard or street prior to occupancy, with a ten-foot minimum depth and a minimum of 20 feet in length.
- (j) *Additional architectural features.* The manufactured home shall contain eaves with a minimum projection of six inches, window shutters, and at least one additional architectural feature such as dormers, bay windows, or another architectural feature that will provide equal compatibility with surrounding residences and land uses, as approved by the building inspector.
- (k) *Yard.* Each newly installed manufactured home shall be located so that there is an unshared yard adjacent to the structure that is at least 5,000 square feet.
- (l) *Buffer.* No manufactured home shall be located closer than 30 feet from the property line of an adjacent property having a residential zoning classification.

Sec. 80-210. - Legal nonconforming manufactured homes.

Legal nonconforming manufactured homes existing prior to the date of the ordinance from which this article is derived may remain in use without complying with this article; however, whenever a legal nonconforming manufactured home is replaced with a manufactured home, the replacement home shall comply with this article. Whenever a nonconforming manufactured home falls into such a state of disrepair that the certificate of occupancy is revoked, in order for a certification of occupancy to be reissued, the manufactured home shall be brought into compliance with this article.

Sec. 80-211. - Mobile homes.

No mobile homes, defined as units constructed prior to June 15, 1976, shall be allowed within the city. Only manufactured homes constructed to the Federal Manufactured Home Construction and Safety Standards governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 USC 5401 et seq. shall be permitted to be installed or relocated within the jurisdiction. Pre-owned manufactured homes relocated into or within the city, must comply with the provisions of this article.

Sec. 80-212. - Pre-owned manufactured homes.

In addition to the other requirements of this article, the relocation and installation of pre-owned manufactured homes shall be subject to the following health and safety standards and conditions and inspection program:

- (1) *Relocation permit.* A permit shall be required to locate a pre-owned manufactured home in the jurisdiction. To obtain a relocation permit, applicants shall provide to the building inspector:
  - a. An affidavit signed by the applicant that the pre-owned manufactured home meets health and safety standards required by this article;

- b. Photographs of the interior and exterior of the pre-owned manufactured home providing evidence that the home meets the minimum health and safety standards of this article; and
  - c. The permit and inspection fee required by subsection (4) of this section.
- (2) *Inspection.* Upon receipt of a relocation permit, applicants may relocate the manufactured home onto a residential site of the proper zoning classification for the purposes of inspection. Applicant shall arrange for an inspection to be held prior to the installation of the manufactured home. At such time as the building inspector certifies that the manufactured home meets the requirements of this article, applicants may install the manufactured home in accordance with the requirements of this article.
  - (3) *Certificate of occupancy.* A certificate of occupancy shall be issued to the applicant after installation and at such time that the building inspector certifies that the requirements of this article have been met.
  - (4) *Fee.* A permit and inspection fee in an amount set by the city council shall be charged to the applicant to cover the cost to process the permit application and inspect the pre-owned manufactured home. Such fee shall cover the initial inspection and one follow-up inspection. The applicant shall be charged an additional amount set by the city council for each additional follow-up inspection that may be necessary.
  - (5) *Alternative inspection.* At the request of the applicant, the building inspector may, at his discretion, inspect a pre-owned manufactured home prior to its being relocated if the home is then located at another site within the city or within a convenient distance of the city. In the event that the building inspector travels outside of the city to inspect a pre-owned manufactured home, applicant shall pay mileage at the then-applicable federal reimbursement rate from the office of the building inspector, to the site of the inspection, and back to the office of the building inspector.
  - (6) *Rehabilitation.* At the request of the applicant, and where the building inspector finds that rehabilitation of a pre-owned manufactured home that does not meet the health and safety standard of this article can be accomplished in a reasonably short period of time and without causing any detriment to the neighborhood where the pre-owned manufactured home will be relocated in the city, the building inspector may issue the relocation permit and delay inspection for a period of up to 45 days to allow for rehabilitation after the pre-owned manufactured home has been relocated into the city. The building inspector shall not grant such request unless the applicant presents satisfactory evidence of a feasible rehabilitation plan. The pre-owned manufactured home shall not be connected to utilities until the inspection is performed and a certificate of occupancy is issued.

Sec. 80-213. - Minimum health and safety standards.

All pre-owned manufactured homes shall comply with the following health and safety standards before being issued a certificate of occupancy by the building inspector:

- (1) *HUD Code.* Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 USC 5401—5445 (the HUD Code) and shall not have been altered in such a way that the home no longer meets the HUD Code.
- (2) *Interior condition.* Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Doors and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration.
- (3) *Exterior condition.* The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and

rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.

- (4) *Sanitary facilities.* Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked upon being connected to ensure they are in good working condition.
- (5) *Heating systems.* Heating shall be safe and in working condition. Unvented heaters shall be prohibited.
- (6) *Electrical systems.* Electrical systems (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to ensure that all metallic parts are properly bonded.
- (7) *Hot water supply.* Each home shall contain a water heater in safe and working condition.
- (8) *Egress windows.* Each bedroom of a manufactured home shall have at least one operable window of sufficient size to allow egress if necessary, which shall have a net clear opening that is a minimum of five square feet in area, 24 inches in height, and 20 inches in width. The opening shall have a sill height of not more than 44 inches above the floor. The opening shall be operational from the inside of the room without the use of keys, tools or special knowledge.
- (9) *Ventilation.* The kitchen in the home shall have at least one operating window or other ventilation device.
- (10) *Smoke detectors.* Each pre-owned manufactured home shall contain one operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturers' recommendations.
- (11) *State law and regulations.* Each pre-owned manufactured home shall be installed in compliance with the requirements of state law, O.C.G.A. § 8-2-160 et seq., and the rules and regulations adopted pursuant to that law, as they may be amended from time to time.

Sec. 80-214. - Enforcement.

- (a) Permanent connection to utilities shall not be approved until the building inspector has issued a certificate of occupancy.
- (b) Owners of pre-owned manufactured homes that are not in compliance with this article upon a third inspection shall have their permit revoked and shall be required to remove the home from the jurisdiction at their own expense.
- (c) Failure to remove a pre-owned manufactured home from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine of \$100.00. Each day any violation under this article continues shall be considered a separate offense.

Secs. 80-215—80-236. - Reserved.

ARTICLE IX. - SIGN REGULATIONS

Sec. 80-237. - Purposes.

- (a) It is the purpose of the mayor and city council in enacting these regulations to provide standards to safeguard life, public health, property and welfare by regulating the location, size, illumination,

erection, maintenance and quality of materials of all signs. More specifically, signs have a powerful impact on the aesthetic environment of the community, and it is the purpose of this article to encourage an aesthetically attractive environment, allowing sufficient opportunities for communications to serve business, interest groups and the public, while complying with the federal and state constitutions and laws. Signs create visual clutter and therefore should be regulated in their size, location, construction and illumination. Signs can detract from the beauty of the neighborhood and lower property values. In seeking to comply with federal and state law, the city has determined the following: large signs are, as the U.S. Supreme Court has recognized, an aesthetic harm; the state supreme court has upheld sign regulations on the basis of aesthetics and preserving the beauty of environment; and, the 11th Circuit has recognized portable signs are visual clutter and a potential traffic hazard. These holdings show that the city's ordinance is within the law and constitutional, which is a goal of the city. The goal of this article is to avoid being an impermissible content-based regulation, and instead to be a permissible time, place and manner restriction.

- (b) Many signs can also be a hazard and negatively impact traffic safety by distracting drivers and blocking views of other vehicles and dangers, by making intersections more treacherous, and by making it difficult to see oncoming traffic when entering a roadway. Therefore, it is also the purpose of this article to prevent those harms by regulating signs to safe locations, safe sizes, with proper and safe illumination and construction.

Sec. 80-238. - Jurisdiction and applicability of code requirements.

- (a) This article shall apply to all properties within the incorporated areas of the city. This article shall not relate to the copy or message on signs within the city.
- (b) All signs and sign structures shall be constructed and maintained in conformance with the state minimum standard codes.
- (c) If any provisions or requirements of this article are in conflict with any other provision or requirement of this article or any other applicable governmental law, ordinance, resolution, rule, or other governmental regulation of any kind, the more restrictive rule or standard takes precedence.

Sec. 80-239. - General provisions and definitions.

- (a) No sign shall be placed or maintained within the city except in conformity with this article.
- (b) Notwithstanding any other restrictions in this article, any sign, display or device allowed under this article may contain any commercial or non-commercial message, or any political or non-political message; except that such messages cannot depict obscenity, as defined by O.C.G.A. § 16-12-80, nor can they depict sexual conduct or sexually explicit nudity, as defined in O.C.G.A. § 36-60-3.
- (c) Height limitations in this article control over the general height limitations of this article and apply to any structure that contains a sign. For example, a church spire or radio antenna with a sign would be subject to the height limitations of this article, rather than general height limitations.
- (d) Definitions. The general definitions and interpretative rules of this chapter shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Abandoned sign* means a sign and/or sign structure which no longer correctly directs or exhorts any person, or advertises a bona fide business, lessor, owner, product or service.

*Animated sign* means any sign that all or any part thereof visibly moves or imitates movement in any fashion whatsoever. Any sign that contains or uses for illumination any lights (or lighting devices) that change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part automatically.

*Area of sign (copy area)* means the area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, or material, open space, or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed.

*Banner* means a sign hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. This definition expressly excludes all fabric signs mounted from one side to a flag pole. For purposes of regulation under this article, banners shall be treated as a ground sign, but shall not be maintained for more than 30 consecutive days, or more than 90 total days in any calendar year.

*Building sign* means any sign attached to any part of a building other than a freestanding sign.

*Canopy* means any permanent roof-like structure, including awnings and marquees, projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

*Canopy sign* means any sign attached to, or made a part of, the front, side, or top of a canopy. These signs are regulated as wall signs.

*Copy* means the wording or graphics on a sign surface in either permanent or removable form.

*Crown of the road* means the highest point of a road, usually the centerline of a road.

*Erect* means to build, construct, attach, hang, place, suspend, paint or affix.

*Establishment* means a commercial, industrial, institutional, educational, office, business or financial entity.

*Flag* means any fabric sign, regardless of the message conveyed, mounted to a flag pole on one side only.

*Flashing sign.* See *Animated sign.*

*Freestanding sign* means any sign which is independent from any building or other structure and is entirely supported by a single or multiple pedestals that are permanently attached at or below ground level.

*Frontage, building,* means the length of an outside building wall facing a street.

*Frontage, street,* means the length of the property line of any one parcel along a street on which it borders.

*Ground sign* means a sign that is anchored to the ground and is wholly independent of a building for support. Freestanding signs are included in this definition, as are signs on poles, frames, or other mounting structures other than buildings.

*Illuminated sign* means a sign which contains an internal source of light or which is designed or arranged to reflect light from an artificial source.

*Mansard sign* means any sign attached to or erected within 12 inches of an actual or simulated mansard of a building, with the sign face parallel to and within the limits of the building, but not exceeding the roofline, and not deemed to be a roof sign. These signs are regulated as wall signs.

*Monopole sign* or *unipole sign* means a freestanding sign that is erected on a single pedestal attached to the ground for the display of messages irrespective of the number of faces or the configuration of the faces.

*Monument sign* means a permanent sign, other than a freestanding pole sign, placed upon or supported by the ground independent of any other structure and constructed of stone, concrete, masonry, stucco or equal architectural material. These signs are regulated as ground signs.

*Moving sign.* See *Animated sign.*

*Painted wall sign* means any sign that is applied with paint or similar substance on the face of a wall.

*Permanent sign* means a sign permanently affixed to a building or the ground.

*Person* means any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

*Planned center* means a nonresidential develop with multiple establishments that are separately owned and operated.

*Portable sign* means any sign supported by its own frame or trailer, with or without wheels, that is designed to move from one place to another.

*Projecting sign* means any sign affixed to a building or wall, which horizontally extends more than 12 inches beyond the surface of a building or wall.

*Revolving sign.* See *Animated sign.*

*Roof sign* means any sign erected, constructed, and maintained upon or over the roof of any building and projecting above the roofline.

*Roof sign (integral)* means any sign erected or constructed as an integral part of a normal roof structure of any design. No part of the sign can extend vertically above the highest portion of the roof, and no part of the sign can be separated from the rest of the roof by a space of more than six inches.

*Setback* means the distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

*Sidewalk, sandwich or A-frame sign* means a sign which is normally in the shape of an "A" of some variation, which is usually two-sided.

*Sign* means any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices.

*Sign face* means the actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.

*Sign structure* means and includes all the elements of the sign, including its supporting structure, sign face, base, lights and every portion of the sign.

*Street* means any public or private right-of-way for automobile use. This excludes alleyways, parking lots and driveways.

*Street frontage* means the width in linear feet of a lot or parcel where it abuts the right-of-way of any public street.

*Under canopy sign* means a sign that is suspended from the underside of a canopy (in awnings and marquees), is perpendicular to the wall surface of a building, and whose copy is not clearly visible from the public right-of-way.

*Wall face* means a measurement of area equal to the height of the structure from the ground to the coping or eave of the roof multiplied by the width of the wall associated with the individual business. The wall face is to be measured for each wall independently.

*Wall sign* means a sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building.

*Window sign* means a sign having its message visible from the exterior of a building that is either located within a building so as to be visible through a window, or affixed directly to the window either inside or outside the building.



Sec. 80-240. - Permitted signs.

- (a) *Standard permitted signs.* The following signs are permitted in the following zoning districts. If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to signs located on any lot or development. A double-sided (double-faced) sign is counted as one sign. Height is measured from grade to the highest portion of the sign structure.
- (b) *Signs permitted in the R-1, R-2, R-3, R-4 and R-5 zoning districts.*
  - (1) *Ground signs.* Up to two double-faced signs per lot. No single sign face may exceed 16 square feet. Total maximum area for all sign faces is 32 square feet (e.g., two 16-square-foot sign faces, or four eight-square-foot faces, etc.). Height is limited to five feet.
  - (2) *Window signs.* Two per lot, total of up to eight square feet of window signs.
  - (3) *Wall signs.* Not permitted.
  - (4) *Entrance signs.* Two per subdivision development, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to a subdivision development. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is six feet.
- (c) *Signs permitted in the C-1 and C-2 zoning districts, for individual uses.*
  - (1) *Ground signs.* One double-faced sign per lot. No sign face may exceed 100 square feet. Total maximum sign face area is 200 square feet. If the lot contains a principal building of over 10,000 square feet, no sign face may exceed 200 square feet and total maximum sign face area is 400 square feet. If the principal building exceeds 100,000 square feet, no sign face may exceed 300 square feet and total maximum sign face area is 600 square feet. Maximum height for all ground signs is 25 feet.
  - (2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.
  - (3) *Wall signs.* Up to four signs per lot. Total wall signage not to exceed 200 square feet on all walls (e.g., four 50-square-foot signs or one 200-square-foot sign). If the lot contains a principal building of over 10,000 square feet, the total amount of permissible wall signage increases to 250 square feet. If the lot contains a principal building of over 100,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 250 square feet.
  - (4) *Entrance signs.* Two per lot, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance of the development. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is six feet.
- (d) *Signs permitted in C-1 or C-2 zoning districts, for planned centers.*
  - (1) *Ground signs.* One double-faced sign of up to 200 square feet per face, for the entire planned center. Total maximum sign face area is 400 square feet. If the development contains over 50,000 total square feet, no sign face may exceed 300 square feet. Total maximum sign face area is 600 square feet. Maximum height for all ground signs is 25 feet.
  - (2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.
  - (3) *Wall signs.* Four signs per business. Total area of all signs is not to exceed ten percent of the gross floor area of each business. No single wall sign shall exceed 250 square feet.

- (4) *Entrance signs.* Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.
- (e) *Signs permitted in the I-1 and I-2 zoning districts, for individual uses.*
  - (1) *Ground signs.* One double-faced sign of up to 300 square feet per face; maximum total area is 600 square feet. Maximum height is 25 feet.
  - (2) *Window signs.* Total signage not to exceed 25 percent of the area of windows facing road frontage.
  - (3) *Wall signs.* Total signage not to exceed 200 square feet on all walls. If the lot contains a principal building of over 50,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 200 square feet.
  - (4) *Entrance signs.* Two per lot, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the lot. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.
- (f) *Signs permitted in I-1 and I-2 zoning districts, for planned centers.*
  - (1) *Ground signs.* One double-faced sign of up to 300 square feet per face, for the entire planned center. Total maximum sign face area is 600 square feet. Maximum height is 25 feet. For lots with frontage on a U.S. highway or state highway, ground signs may have a maximum height of 40 feet.
  - (2) *Window signs.* Total signage per business not to exceed 25 percent of the area of windows facing road frontage.
  - (3) *Wall signs.* Total area of all signs is not to exceed ten percent of the gross floor area. No more than four signs per business are permitted, and no single wall sign shall exceed 250 square feet.
    - a. *Entrance signs.* Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be set back from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is ten feet.
- (g) *Signs permitted in the PUD zoning district.* Within the residential portion of any PUD, the provisions of subsection (b) of this section apply. A sign plan for any commercial portion of a PUD shall be made a part of the PUD application process and approved during the rezoning process. PUD applicants should seek consistency with the signage provisions of commercial zoning districts as shown above.
- (h) *Internal signs.* Any sign not visible from the public right-of-way is not restricted or regulated by this article.
- (i) *Outdoor facility signs.* Any sign that is located at an outdoor event facility that is open to the general public, such as a ball field, race track, or amphitheater, and is mounted on the internal-facing walls of the facility, is exempt from the maximum number and square footage restrictions.

Sec. 80-241. - Regulations for signs.

- (a) *Location, height, and setback.*

- (1) The property owner must give permission for all sign placement on the owner's property, through the issuance of a letter signed by the owner.
  - (2) All signs must comply with all side and rear setbacks of this chapter.
  - (3) Signs can be located in front setback areas, but all signs and sign structures, except as noted below, must be set back at least ten feet from the public right-of-way. No portion of a sign or sign structure shall encroach on or overhang the public right-of-way or any other person's property. Furthermore, for safety reasons, no sign shall be located closer than ten feet from the back of the curb of a public roadway, or if there is no curb, from the edge of the pavement.
  - (4) Distances are measured from the closest portion of the sign (whether that is the base, sign face, or the sign structure) to the right-of-way, curb or pavement.
  - (5) The height requirements of a sign shall be computed as the length of a straight vertical line from normal grade to the height of the highest attached component of the sign or sign structure. When the sign is constructed within 15 feet of a right-of-way, the normal grade shall be considered the elevation of the crown of the road. When a sign is constructed 15 or more feet from any right-of-way, normal grade shall be considered the lower of:
    - a. Existing grade of the site of the sign prior to construction of the sign; or
    - b. The newly established grade at the base of the sign after construction, exclusive of any filling, beaming, mounding or excavating solely for the purpose of locating the sign.
- (b) *Number.* For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit.
- (c) *Illumination.*
- (1) Ground signs cannot be internally illuminated except where expressly permitted by this article. All signs may be externally illuminated. External illumination of any sign in any district shall be positioned and shielded so that the light source does not shine directly into the path of motorists on a public right-of-way or into the windows of adjacent dwellings or businesses without the permission of the owner and resident thereof. Signs located in residential districts shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
  - (2) Flashing, blinking or otherwise varying illumination are not permitted. No external or internal illumination that causes confusion with or distraction from any traffic signal or safety device shall be permitted.
  - (3) All externally illuminated signs shall utilize low wattage luminaries, mounted in fixtures designed to direct the light and eliminate light trespass, such as light shining into residences or other neighboring structures.
  - (4) All internally illuminated signs shall utilize low wattage luminaries designed to reduce light glow.
  - (5) All illuminated signs over ten feet in height shall either be internally illuminated where permitted or illuminated by external lighting fixtures not visible to passing motorists.
  - (6) No sign shall give off light which glares, blinds, or has any other adverse effect on traffic or adjacent properties. The light from an illuminated sign shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways. This shall be determined by measuring the footcandles (lumens per square foot) that fall on adjacent properties or the public right-of-way. No sign shall exceed 0.5 footcandles at any adjacent property line in a residential district or two footcandles at any public right-of-way.
  - (7) Multiple-message signs. Multiple-message signs are those which change the message or copy on the sign face mechanically or electronically by movement or rotation of panels or

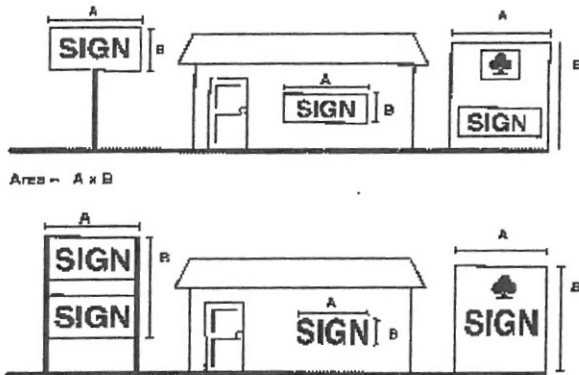
slates, or by changing electronic display on the sign face. They are subject to the following restrictions:

- a. No multiple-message sign may change its message or copy, or any pictures or images that are part of the message, more frequently than once every minute, provided that multiple-message billboards shall be allowed to change the copy or images that are part of the message not more frequently than once every ten seconds.
- b. When the message of a multiple-message sign is changed mechanically, it shall be accomplished in three seconds or less. When the message of a multiple-message sign is changed in an electronic manner, through the use of light emitting diodes, back lighting or other light source, the transition shall occur within two seconds.
- c. When any multiple-message sign is located within 150 feet of any residential district, the display of multiple-messages shall discontinue between the hours of 11:00 p.m. and 6:00 a.m., and the sign shall be static and not display more than one message during that period.

(8) Multiple-message signs and internally illuminated signs are only permitted in the C-1 and C-2 zoning districts.

- (d) *Calculation of area.* The area of a sign is calculated by determining the area of the smallest square or rectangle which encloses the sign face and the structure surrounding the sign face. For example, the pole or base would not be included, but any frame holding the sign face in place would be counted. See examples:

Examples of Sign Face Area Measurements



- (e) *Unusual shaped signs.* Unusual shaped signs are signs that are any shape other than a square or rectangle, and include signs with projecting elements or features, round, oval, and triangular signs, signs with more than four sides, signs in the shape of an animal, object, or device, and so forth. For all such signs, the area is calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face, not including the base, or any open space.
- (f) *Sign support structures.* Signs 300 square feet per face or larger must be constructed with a monopole-type support system.

Sec. 80-242. - Safety and construction standards.

- (a) *Engineering approval.* All signs in excess of 15 feet in height should be constructed according to plans approved by a state registered professional engineer. The sign owner shall produce such approved plans at the request of the building official.

- (b) *Official confusion.* Signs which contain or are in imitation of an official traffic sign or signal are prohibited.
- (c) *Fire safety.* No sign or sign structure may be erected or maintained which obstructs any fire escape, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.
- (d) *Corner visibility.* No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines of two streets, or of a street intersection with a railroad right-of-way.
- (e) *Traffic visibility.* No sign shall obstruct the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road).
- (f) *Good repair.* All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair. Any structure formally used as a sign, but not in use for any other purpose, must be removed by the owner of the property within ten days after written notification from a designated city official or 30 days after its use as a valid sign has ceased, after which time, the city may cause the removal of the sign at the owner's expense.
- (g) *Removal of unsafe signs and safety hazards.* The city may remove a sign in violation of this article, without giving notice to any party, if said sign is upon the public right-of-way or upon other public property, or said sign poses an immediate safety threat to the life or health of any members of the public.

Sec. 80-243. - Prohibited signs.

The following types of signs are prohibited:

- (1) Roof signs (which means signs mounted above a roof or projecting above the roof-line of a structure).
- (2) Rotating signs.
- (3) Signs with more than two sides.
- (4) Except where expressly permitted, changing copy, moving signs, or signs with moving parts are prohibited. This includes animated signs involving motion or sound; fluttering ribbons; "trivision"-type signs; signs displaying moving pictures or images; LED signs or EVMC signs with content that changes more than once daily; signs with moving words; signs with waiving elements, whether motorized or wind-powered; or similar moving signs. This regulation shall not be construed to prohibit flags, which are regulated as other non-moving signs.
- (5) A-frame, sandwich type, sidewalk or curb signs, except in DDA area.
- (6) Swinging or projecting signs, except in DDA area.
- (7) Portable signs (mobile, trailer).

Sec. 80-244. - Procedures; sign registration and building permits.

- (a) Except as specifically exempted from the provisions of this article, a person or firm may not legally maintain, post, display, enlarge, erect, move, or substantially change a sign that is larger than four square feet without first obtaining a permit from the Public Works Director. Signs using electrical wiring and connections (i.e., illuminated signs), as well as larger signs, may require additional permits under the city building code, and the building official should be contacted regarding such signs.
- (b) All parties are advised to consult with the Public Works Director to avoid erecting signs that violate this article. No person shall obtain a vested right to maintain a sign that does not comply with this article at the time it is erected. Signs erected in violation of this article shall be removed or reconstructed in compliance with this article.

- (c) Permit applications for conforming signs shall be filed by the sign owner or his agent with the Public Works Director.
- (1) *Applications.* Applications shall contain the following:
    - a. The type of the sign as defined in this article.
    - b. The street address and zoning designation of the property where the sign is to be located.
    - c. A site plan drawn to scale that shows the location of the sign on the lot, including indicating setbacks from property lines and rights-of-way.
    - d. The square foot area per sign and the aggregate square foot area if there is more than one sign face.
    - e. The name and address of the owner of the real property upon which the sign is to be located, along with written consent of said owner.
    - f. Engineered construction plans for signs exceeding 15 feet in height, showing they are approved by a state registered professional engineer.
    - g. Name, address, phone number and business license number of the sign contractor.
  - (2) *Fees.* No permit shall be issued until the appropriate application has been filed with the Public Works Director and permit fees have been paid as adopted by the mayor and city council and as amended from time to time.
  - (3) *Granting of permit.* The Public Works Director or his designee shall grant a permit upon receipt of a completed application if the proposed sign meets the requirements of this article.
  - (4) *Permit expiration.* A permit shall become null and void if construction of the sign has not begun within six months from the date of issuance. Issuance of a permit shall in no way prevent the city from later declaring the sign to be nonconforming or unlawful if, with further review of available information, the sign is found not to comply with the requirements of the ordinance applicable at the time that the complete permit application was filed.
  - (5) *Violation.* A violation of any provisions of this article will be grounds for termination of a permit granted by the city for the erection of a sign. Should it be determined that a permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this article, the Public Works Director or his designee shall revoke the permit. No information shall be required regarding the content of the sign. Any person failing to obtain a permit prior to construction shall be subject to citation and, upon conviction, shall be punished in accordance with the enforcement provisions of this chapter and applicable law.

Sec. 80-245. - Nonconforming signs.

Signs existing legally at the time of the adoption or amendment of the ordinance from which this article is derived, but which do not conform to newly adopted or amended provisions of this article solely because of a change in this article, and not because of a change to the sign, may remain as legal nonconforming signs, subject to the following provisions:

- (1) There must be existing property rights in the sign;
- (2) The right to continue a nonconforming sign is confined to the sign owner or his transferee;
- (3) A nonconforming sign may be restored to its original condition, provided that not more than 50 percent of the sign is destroyed. The 50 percent is to be determined by 50 percent of the value of the materials of the sign, inclusive of poles and other structural members, immediately prior to damage;

- (4) A nonconforming sign when relocated or moved shall no longer be considered a nonconforming sign and thereafter shall be subject to all the provisions of law and of these rules relating to outdoor advertising;
- (5) The sign must remain substantially the same as it was on the effective date of the adoption of the ordinance from which this article is derived which rendered the sign nonconforming. Extension, enlargement, replacement, rebuilding, adding lights to a non-illuminated sign or re-erection of the sign will be considered a change in the existing use. The maintenance will be limited to:
  - a. Replacement of nuts and bolts;
  - b. Additional nailing, riveting or welding;
  - c. Cleaning and painting;
  - d. Manipulating to level or plumb the device, but not to the extent of adding guys or struts for stabilization of the sign structure;
  - e. A change of the message, including changing faces, as long as similar materials are used and the sign face is not enlarged;
- (6) At no time may changes be made in a nonconforming sign which would increase the value of the sign;
- (7) A nonconforming sign may continue as long as it is not abandoned, destroyed, discontinued, or purchased by any governmental agency. Any sign suffering damage in excess of normal wear cannot be repaired without:
  - a. Notifying the Public Works Director in writing of the extent of the damage, the reason the damage is in excess of normal wear, and providing a description of the repair work to be undertaken, including the value of the sign materials and the cost of the repair; and
  - b. Receiving written notice from the Public Works Director authorizing the repair work as described above. If said repair is authorized by the terms of this article, the Public Works Director shall mail such notice to the applicant within 30 days of receipt of the information described in subsection (7)a of this section.

Secs. 80-246—80-268. - Reserved.

#### ARTICLE X. - TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 80-269. - Purposes.

The purpose of this article is to provide for the siting of all wireless, cellular, television and radio telecommunications towers and antennas; to encourage the location of towers in nonresidential areas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of the city; to encourage the joint use of new and existing tower sites among service providers; to locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized; to encourage the design and construction of towers and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

Sec. 80-270. - Definitions.

The general definitions and interpretative rules of this chapter shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control. 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:

*Alternative tower structure* means clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on premises signs, outdoor advertising signs, water storage tanks, and similar natural or manmade alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* means any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

*Co-location* means the placement of the antennas of two or more service providers upon a single tower or alternative tower structure.

*Department* means the city planning, zoning and development department.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Geographic antenna placement area* means the general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.

*Height* means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower structure or appurtenance.

*Preexisting towers and antennas* means structures as set forth in section 80-271(d).

*Scenic views* means those geographic areas containing visually significant or unique natural features, as identified in the city comprehensive plan.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, manmade trees (with accessory buildings/structures) and other similar structures.

*Visual quality* means the appropriate design, arrangement and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

#### Sec. 80-271. - Applicability.

- (a) *General application.* Except as otherwise provided herein, the provisions, requirements and limitations of this article shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within the city. In the event of any conflict between any other provision of this chapter and this article, this article shall control.
- (b) *Governmental exemption.* Except as otherwise specifically provided for in this article, the provisions of this article shall not apply to the city's properties, facilities or structures. Private facilities and structures placed upon city property shall be governed by a lease agreement between the city and the provider.
- (c) *Amateur radio; receive-only antennas.* This article shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one such tower or antenna per residence shall be excluded from this article.
- (d) *Preexisting towers and antennas.* Towers and antennas permitted and erected prior to the adoption of the ordinance from which this article is derived or amendment thereto shall be deemed preexisting, and shall not be subject to the requirements of this article. The placement of additional antennas on any nonconforming structure shall not create a vested right for the continued use of



the structures should the nonconforming use cease. If an additional antenna is co-located on a legally preexisting tower, the requirements of this article shall be met.

Sec. 80-272. - General provisions.

- (a) *Special use required.* A special use permit shall be required for the placement of any tower or alternative tower structure, except as otherwise permitted herein. Procedures for special use permits sought under this article are contained in section 80-273.
- (b) *Principal or accessory use.* A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different existing primary use or existing structures. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including, but not limited to, setback, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use of structure.
- (c) *Co-location of antennas required.* Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure, if reasonably possible. An exception to co-location shall only be made if the applicant submits a report from an engineer demonstrating that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available, or if the applicant submits an affidavit showing that while a suitable tower may exist, no space is available thereon. Co-location is permissible provided the new antenna will add no more than ten feet to the height of the tower and related equipment or appurtenances. Increasing the antenna height more than ten feet requires a special use permit. Co-location requires only a building permit, and the information described in section 80-275(b).

Sec. 80-273. - Special use permit required.

- (a) *General.*
  - (1) A special use permit shall be required for the construction of a new tower in any zoning district. All such uses shall comply with requirements set forth in this article and all other applicable codes and ordinances, unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.
  - (2) In granting a special use permit, the city may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties as set out in subsection (f) of this section.
- (b) *Application; contents; fee.* All applications for special use permits shall be submitted to the city Public Works Director. Each application shall contain as a part thereof detailed plans and specifications as set forth in section 80-275. An application for a special use permit shall not be accepted for processing without the information required in section 80-275. An application fee shall be charged by the department in the amount stated in section 80-276.
- (c) *Independent expert review.* The city may engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a special use permit and render an opinion regarding any concerns about the proposal, including, but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the city shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be allowed a reasonable amount of time,

not to exceed 30 days, following the receipt of the letter in which to modify the application to alleviate the city's concerns or withdraw the application altogether. The expert's opinion shall be considered determinative, unless the applicant agrees to pay the expenses of submitting both opinions for a peer review, which review shall then be considered final. If the independent third-party expert supports the applicant's expert, then the department shall pay the expenses of said third-party expert. If the independent third-party expert supports the position of the department, then the applicant shall pay the expenses of said third-party expert.

- (d) *Public hearing.* Before taking action upon the proposed special use permit, the city shall hold a public hearing on the matter consistent with the procedures of article XIV of this chapter.
- (e) *Considerations in approval or denial of special use permits.* Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The following factors may be taken into consideration in acting upon a special use permit application under the provisions of this article:
  - (1) The height and setbacks of the proposed tower or antenna;
  - (2) The proximity of the tower or antenna to residential structures and residential district boundaries;
  - (3) The nature of uses on adjacent and nearby properties;
  - (4) The surrounding topography;
  - (5) The surrounding tree coverage and foliage;
  - (6) The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (7) The proposed ingress and egress;
  - (8) The availability of suitable existing towers or other structures for antenna co-location;
  - (9) The impact of the proposed tower or antenna upon scenic views and visual quality of the surrounding area;
  - (10) The needs of the applicant as balanced against the detrimental effects on surrounding properties; and
  - (11) The impact of the proposed tower or antenna on adjacent and nearby properties.
- (f) *Requirements for issuance of special use permit.* The special use permit may be issued by the city only upon satisfaction of the following requirements:
  - (1) A proper application filed in accordance with the requirements of section 80-275;
  - (2) The application is otherwise in compliance with or otherwise is satisfactory in considering the standards contained in subsection (e) of this section;
  - (3) The applicant complies with the conditions proposed by the city for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with surrounding uses;
  - (4) The city determines that the benefits and need for the proposed special use are greater than any possible depreciating effects or damages to neighboring or nearby properties; and
  - (5) All fees, including expert fees, have been paid in full.
- (g) *Resubmittal of special use application.* An application for a special use permit which has been denied shall not be resubmitted for a period of 12 months, and then only if the applicant can document a substantial change in need for a tower or antenna at the same location.
- (h) *Time.* All co-location applications shall be ruled upon within 90 days of the filing of a completed application; all other applications shall be ruled upon within 150 days of a completed application. Applications which are not completed at the time of filing shall not be accepted, and city staff shall

review the application to verify completeness within 30 days from the filing of the application. In the event that an application is determined to not be complete within the initial 30-day period after filing, city staff shall promptly notify the applicant, and the time for issuance of the decision shall be tolled for the time period between such notification to the applicant and the date the applicant files materials which complete the application. The time periods within this subparagraph may be extended by the mutual consent of the city and the applicant.

Sec. 80-274. - General requirements for towers.

- (a) *Setbacks and separation.* The following setbacks and separation requirements shall apply to all towers.
- (1) Towers shall be set back a distance equal to the height of the tower from its base to any public right-of-way or occupied structure, or property line of the lot or parcel containing the tower, except when a property owner or adjoining property owner consents in writing to waive the setback and the applicant clearly demonstrates that the tower will collapse within the parent parcel.
  - (2) Guy wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.
  - (3) In zoning districts other than I-2, towers shall not be located closer than 500 feet from any existing tower. This requirement shall not apply to amateur radio towers.
  - (4) Notwithstanding any other provision of this article, no tower or antenna shall be permitted in a residential neighborhood or within 1,000 feet of any residential dwelling unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.
  - (5) The requirement of subsection (a)(4) of this section may be waived by the adjacent property owner. In such cases, the applicant shall submit a notarized affidavit from the adjacent owner, identifying the property owned, and affirming that he agrees that the tower can be erected at the proposed location, which shall be specifically described, including its distance from that owner's residential dwelling. The affidavit shall further specifically state that the affiant understands that he or she is waiving his rights under this subsection. Waivers shall be required of all property owners whose dwellings are located within 1,000 feet of the proposed tower.
- (b) *Aesthetics.* The guidelines set forth in this subsection shall govern the design and construction of all towers, and the installation of all antennas, governed by this article and shall be approved by the director.
- (1) Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
  - (3) For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.
  - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the city may review the available lighting alternatives and

approve the design that would cause the least disturbance to the surrounding views. The lighting shall be dimmed or changed to red lights from the sunset to sunrise.

- (5) No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within the city.
  - (6) To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.
  - (7) Access to the tower site shall be restricted so as to minimize visibility of the access. Where possible, existing roads shall be used. Where no roads exist, access shall follow the existing contours of the land.
  - (8) Such other additional requirements as the director shall reasonably require to minimize the visual impact of the site on the surrounding area.
- (c) *Security fencing/anti-climbing devices.* All towers and supporting equipment shall be enclosed by fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternative.
- (d) *Landscaping.* The following requirements shall govern landscaping surrounding all towers:
- (1) Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten feet in width and located outside the fenced perimeter of the compound.
  - (2) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
  - (3) Landscaping shall be maintained by the provider and shall be subject to periodic review by the director to ensure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this article.
  - (4) Amateur radio towers and antennas, or receive-only antennas, shall not be subject to the provision of this subsection unless required by the city through the special use permit process.
- (e) *Maintenance impacts.* Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street, utilizing existing access to the property on which such facility is to be located, where possible.
- (f) *Federal requirements; removal of towers.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this article shall bring such tower and/or antenna into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the tower and constitute grounds for the removal of the tower or antenna at the owner's, permittee's, or lessee's expense. Any such removal by the city shall be in the manner provided in the city unfit property ordinance then in effect.
- (g) *Building codes; safety standards; removal of towers.* To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or alternative tower structure shall ensure that it

is maintained in compliance with standards contained in applicable standard building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have 15 days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within 15 days shall be deemed a declaration of abandonment of the tower and constitute grounds for removal of the tower as provided in the city unfit property ordinance. Prior to the removal of any tower, the department may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above-referenced compliance period. Abandoned towers or towers deemed unsafe may also be removed under the city unfit property ordinance procedures.

- (h) *Change of ownership notification.* Upon the transfer of ownership of an interest in any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the department of the transaction in writing within 30 days.

Sec. 80-275. - Application procedures.

- (a) *General application requirement.* Application for a permit for any telecommunication facility shall be made to the department by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The director is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under subsection (b) of this section, the following information shall be submitted when applying for any permit required by this article and must be submitted for an application to be considered complete:

- (1) Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the city information services department.
- (2) Landscaped plan to scale indicating size, spacing and type of plantings required in section 80-274(d).
- (3) A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
- (4) A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic or safety impacts of such maintenance.
- (5) Report from a professional qualified engineer licensed in the state, or other appropriate qualified industry expert, documenting the following:
  - a. Tower or antenna type, height, and design;
  - b. Engineering, economic, and other pertinent factors governing selection of the proposed design;
  - c. Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;
  - d. Evidence of structural integrity of the tower or alternative tower structure;
  - e. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris;
  - f. Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing

non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety;

- g. Certification that the proposed height of the tower is the minimum height necessary for coverage; and
  - h. A propagation study which documents the proposed location is the only location for the tower that reduces alleged gaps in coverage.
- (6) Identification of the geographic service area for the subject installation, including a map showing the proposed site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network (i.e., whether such antenna or tower is needed for coverage or capacity.)
  - (7) The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power line easements impacting the proposed tower site.
  - (8) The applicant must provide any other information which may be requested by the department to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.
- (b) *Tower co-location information submittals.* Any person or entity co-locating an antenna or antennas on a tower for which a permit has already been issued shall submit the following information only:
- (1) The name of the person or entity co-locating the antenna.
  - (2) The name of the owner of the tower.
  - (3) The tower's permit number.
  - (4) The location of the tower.
  - (5) The remaining structural capacity of the tower.
  - (6) Certification that the antenna and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

Sec. 80-276. - Application and permit fees.

- (a) *Special use permit.* The fee for an application seeking a special use permit to erect a new tower on an alternative tower structure shall be \$3,000.00.
- (b) *Co-location.* There shall be no fee for an application seeking a special use permit for co-location on an existing tower or alternative tower structure other than the building permit fee.
- (c) *Building permit fees.* In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply.

Secs. 80-277—80-300. - Reserved.

## ARTICLE XI. - ENFORCEMENT

Sec. 80-301. - Zoning enforcement officer; appeals.

The provisions of this chapter shall be administered and enforced by the Public Works Director. Requests for an administrative variance from the requirements of this chapter shall be heard and decided by the Public Works Director in accordance with the guidelines set forth in section 80-327. Decisions of the Public Works Director may be appealed in accordance with the provisions of article XIV of this

chapter. Requests for a variance other than an administrative variance shall be heard and decided by the planning commission in accordance with the guidelines set forth in section 80-330.

Sec. 80-302. - Enforcement actions.

- (a) *Enforcement options.* Enforcement of this chapter may be through citation, civil fines, or other civil proceedings. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this chapter as the same exists or as it may hereafter be amended or which shall fail to do anything required by this chapter as the same exists or as it may hereafter be amended shall be subject to an enforcement action. The city shall also be authorized to bring actions in rem against the property itself.
  - (1) Representatives of the city shall have the power to conduct such investigations as may reasonably be deemed necessary to ensure or compel compliance with the requirements and provisions of this chapter, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as permitted by law. Officers and officials may seek inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.
  - (2) No person shall obstruct, hamper or interfere with any city representative while in the process of carrying out his official duties in the enforcement of this chapter.
- (b) *Persons who may be cited.* Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property are in compliance with this chapter. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors, and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and companies responsible for the work may be cited in lieu of or in addition to citations issued to the actual individuals on site committing violations. In addition, the city shall also be authorized to bring actions in rem against the property itself.
- (c) *Daily violations.* Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or court proceeding.
- (d) *Multiple violations.* Each separate action, omission, or occurrence relating to any specific provision of this chapter shall be a separate violation, subjecting the offender to a separate citation. Multiple junk cars count as one violation, but the fine increases as shown in section 80-303.
- (e) *Citation.* The Public Works Director, or designated code enforcement personnel, or other authorized personnel, may issue citations for violations of this chapter, or violation of any stop-work order.
  - (1) Prosecutions for violation of this chapter shall be commenced by the completion, signing, and service of a citation by an authorized city official or zoning enforcement officer. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the municipal court. A stop-work order may be issued in conjunction with a citation.
  - (2) Each citation shall state the time and place at which the accused is to appear for trial in municipal court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the court, shall indicate the identity of the accused and the date of service, and shall be signed by the deputy sheriff or other authorized officer who completes and serves it.

- (3) Any defendant who fails to appear for trial may be arrested on the warrant of the municipal court and required to post a bond for his future appearance.
- (4) The city attorney, city solicitor or another attorney designated by the city council may act as prosecuting attorney for violations of this chapter.
- (5) Fines shall be assessed in accordance with section 80-303.
- (f) *Civil fines and proceedings.* In addition to or in lieu of any other remedy, the city may seek injunctive or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this chapter. Such action may also seek civil fines at the mandatory rates specified in section 80-303 for violation of this chapter, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this chapter. The city shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court wherein any relief is granted or fine assessed.
- (g) *Stop-work orders.* Upon notice from the Public Works Director, designated code enforcement officers, or other authorized personnel, work on any project that is being done contrary to the provisions of this chapter shall be immediately stopped.
  - (1) Stop-work orders shall affect all work being done on a project or development (including work done on other lots in the subdivision owned by the same violator). Stop-work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop-work order is lifted.
  - (2) A stop-work order shall be in writing and shall be given to the owner of the property, his authorized agent, or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop-work order may be issued, with a written order to be provided within three working days.
    - a. Stop-work orders may be issued on their own, or in conjunction with criminal citations, or civil proceedings in superior court.
    - b. Issuance of a stop-work order may be appealed to the planning commission.
- (h) *Additional penalties.* Persons cited are also subject to other penalties within the jurisdiction of the municipal court.

Sec. 80-303. - Fine schedule.

Fines assessed under this chapter shall be assessed according to the following mandatory schedule, whether assessed as a civil fine in superior court, or assessed as a penalty upon conviction in magistrate court. The maximum permissible fine shall be \$1,000.00 per offense. In no event shall a fine be reduced below the mandatory minimum, as set forth below. Fines may be increased by mandatory add-ons under state law. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this chapter, whether violations of the same or different provisions of this chapter as the initial violation, and whether involving the same or different property, shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent days shall not count as a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Note: "Per vehicle" additions relate to violations such as junk vehicles, parking violations, and similar violations, where each vehicle is in violation of the chapter.

- (1) *First violation.* For the first violation of any provision of this chapter by any violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:



Violation of article IV of this chapter:	\$250.00 (plus \$50.00 per vehicle, if applicable)
Violation of any other article:	\$200.00

- (2) *Second violation.* For the second violation of any provision of this chapter (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of article IV of this chapter:	\$500.00 (plus \$75.00 per vehicle, if applicable)
Violation of any other article:	\$400.00

- (3) *Third and subsequent violations.* For the third and subsequent violation of any provision of this chapter (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of article IV of this chapter:	\$750.00 (plus \$100.00 per vehicle, if applicable)
Violation of any other article:	\$600.00

Sec. 80-304. - Records.

The zoning department shall keep records of violators, whether corporate or individual, in order to determine when second or subsequent violations occur.

Secs. 80-305—80-326. - Reserved.

## ARTICLE XII. - VARIANCES

Sec. 80-327. - Administrative variances.

If, in the judgment of the Public Works Director, the application of any particular numeric criteria, standard or requirement of this chapter causes undue hardship on the applicant, the Public Works Director shall be empowered to grant an administrative variance to alter said requirement by up to 20 percent if, in doing so, the purposes of this chapter are not impaired and there is not a negative impact on the surrounding uses, properties, or neighbors. In granting an administrative variance, the Public Works Director may attach such conditions as the Public Works Director may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured, and substantial justice done. The Public Works Director shall not be authorized to grant a use variance to permit a use in a district in which the use is prohibited. An administrative variance shall be granted or denied in writing. Notice of the grant of an administrative variance shall be sent to all adjoining property owners via first class mail by the applicant. The notice shall describe the variance granted and state that interested parties have 30 days in which to file an appeal of the variance. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. Proof of mailing, as described in section 80-331(c), shall be submitted to the zoning department within ten days of grant of the variance. The 30 days shall be counted from the date of mailing of the notice.

Sec. 80-328.—80-329 - Reserved.

Sec. 80-330. - Powers and duties of the planning commission.

The planning commission shall have the following powers and duties:

- (1) *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Public Works Director in the enforcement of this chapter. Appeals to the planning commission may be taken by any person aggrieved or by any officer, department, board, or bureau of the city affected by any decision of the Public Works Director. Such appeal shall be taken within 30 days of said decision by filing with the Public Works Director a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten days of the appeal.
- (2) *Variances.* The planning commission has the power to hear requests for variances from the provisions of this chapter. Variances may be granted only if the board finds all of the following to exist:
  - a. That one of the following is true, through no action or fault of the property owner or predecessor:
    1. The property is exceptionally narrow, shallow or unusually shaped;
    2. The property contains exceptional topographic conditions;
    3. The property contains other extraordinary or exceptional conditions;
    4. There are existing other extraordinary or exceptional circumstances; and
  - b. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
  - c. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

Variance decisions shall be issued in writing within ten days of the hearing.

- (3) *Conditions.* In granting a variance, the planning commission may attach such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.
- (4) *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the Public Works Director, a request that would constitute a text amendment, then the application shall not be accepted. For example, a request to be exempted from the Etowah Valley Historic District requirements would not be the subject of a variance. The applicant shall instead be directed to file for a text amendment. Variances can only be given to alter a numeric value, such as a setback, height limit, area limit, and so forth. Furthermore, the planning commission shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to this chapter (such as reducing a requirement to zero or totally eliminating a requirement).
- (5) *Self-inflicted hardship.* The planning commission shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to the adoption of the ordinance from which this chapter is derived or amendment thereto.

- (6) *Place of worship.* In compliance with federal law, if the variance is requested by a place of worship or church, in connection with the exercise of religion, the board shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the variance can be granted without harming that interest.
- (7) *Reasonable accommodation variance.* Notwithstanding any other ordinance provisions to the contrary, the planning commission shall consider and grant reasonable accommodations necessary to afford persons with disabilities equal housing opportunities. In determining whether a particular accommodation is reasonable and necessary, the planning commission shall consider whether:
  - a. The accommodation is necessary, because of a disability, to allow the applicant an equal opportunity to use and enjoy the dwelling of his choice;
  - b. The request imposes an undue burden or expense on the city; and
  - c. The proposed accommodation would create a fundamental alteration in the zoning scheme.

An application for a reasonable accommodation variance shall comply with all other procedural requirements for consideration and approval of variances under this chapter.

Sec. 80-331. - Applications, hearings and notice.

- (a) *Applications.* Applications for appeals or variances must be filed in accordance with the schedule set out by the Public Works Director. The contents of the application shall be determined by the Public Works Director. The Public Works Director shall forthwith transmit to the board all documents constituting the record upon which the action appealed from was taken. Variances may be sought by filing an application on forms provided by the Public Works Director. Applicants shall pay the fee established by the City Council.
- (b) *Published notice.* Due notice of the public hearings pursuant to this article shall be published in the newspaper of general circulation within the city. Notice advertising the hearing on the appeal or variance and indicating date, time, place and purpose of the public hearing shall be published at least 15 days but not more than 45 days prior to the date of the hearing. The cost of the advertisement shall be borne by the applicant. For variances, the Public Works Director shall post, at least 15 days prior to the planning commission's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application number, date, time and place of the public hearing.
- (c) *Letters to adjacent property owners.* The applicant for said appeal or variance shall also give notice of the appeal or variance and the public hearing thereon to all property owners adjoining the property for which said appeal or variance is made or sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the post office. Proof of mailing means either a first class certificate of mailing or a first class certified mail receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Proof of mailing for each recipient shall be provided to the Public Works Director before the public hearing. Said notice must be mailed at least 15 days prior to the date of said scheduled public hearing.
- (d) *Information in notice.* The notice required herein to be published and to be served upon adjacent property owners shall contain the following information:
  - (1) Name and address of the applicant;
  - (2) Address and location of the property for which the appeal or variance is sought;

- (3) Current zoning of the property for which the appeal or variance is sought;
  - (4) The variance requested or the subject matter of the appeal and the reason for the requested variance or the appeal; and
  - (5) The date, time and place of the public hearing on said requested appeal or variance.
- (e) *Recording hearing.* The applicant may arrange for and provide a certified court reporter to transcribe the hearing before the planning commission, at the expense of the applicant. Upon appeal of the decision of the planning commission, said transcript shall be made part of the record for review. Board hearings shall also be recorded by video or audio tape.

Sec. 80-332. - Stay of proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Public Works Director certifies to the planning commission after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a stay granted by the planning commission or by a restraining order issued by a court of record on application, on notice to the Public Works Director, and for due cause shown.

Sec. 80-333. - Action by the planning commission.

- (a) In exercising its powers, the planning commission may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the Public Works Director.
- (b) The concurring vote of a majority of the members present of the board shall be necessary to reverse any order, requirement, decision or determination of the Public Works Director, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to affect any variation of this ordinance.
- (c) On all appeals, applications and other matters brought before the planning commission, said board shall inform, in writing, all the parties involved of its decisions and the reasons therefore. Such written decision shall be prepared by the zoning staff or city attorney and be signed by the secretary.

Sec. 80-334. - Conduct of the planning commission's hearing.

- (a) *Sign up.* All persons who wish to address the planning commission at a hearing concerning an appeal or variance under consideration by the planning commission shall first sign up on a form to be provided by the city prior to the commencement of the hearing.
- (b) *Matter presented; out of order applications.* The secretary of the planning commission will read the proposed appeal or variance under consideration in the order determined by the Public Works Director. The Public Works Director, or his designee, shall then present the basis of the appeal or variance, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed appeal or variance. Any appeal or variance that has not complied with all notice and other requirements of this article shall be deemed out of order and shall not be considered at that hearing. It shall be postponed until the next meeting, and if it is still out of order at the next meeting, the application shall be deemed denied.
- (c) *Speakers.* The secretary of the planning commission shall call each person who has signed up to speak on the appeal or variance then before the planning commission in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and state his current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the members of the planning commission present at the hearing allow the person to

speak to the appeal or variance, notwithstanding the failure of the person to sign up prior to the hearing.

- (d) *Time limits.* The applicant or appellant and those in favor of the variance or appeal shall have 10 minutes to speak, total. Those opposed to the application or appeal shall have 10 minutes to speak, total. The board may extend these times upon majority vote. Each individual speaker shall have no more than three minutes to speak, except the applicant, who can take as much of the 10 minutes as is desired. The applicant may reserve time for rebuttal. Upon vote of a majority of the board, either side may be granted additional time in any amount the board desires, but in such event, the other side shall be granted the same additional time.
- (e) *Evidence, cross examination.* Each side shall have the opportunity to present evidence and witnesses which shall be entered into the record. Cross examination of opposing witnesses shall be allowed by the chair, but decorum shall be maintained. The board may require the applicant and opponents to designate one person to conduct any desired cross examination.
- (f) *Decorum and order.* Each speaker shall speak only to the merits of the proposed appeal or variance under consideration and shall address his remarks only to the members of the planning commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The chair may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to ensure that the public hearing on the appeal or variance is conducted in a fair and orderly manner.

Sec. 80-335. - Appeals to the mayor and city council and to superior court.

- (a) *Appeal to city council.* Recourse from a decision by the planning commission shall be to the city council, by filing a written notice of appeal within 30 days of the board's decision. The city council shall have a hearing on said appeal within 60 days of completion of preparation of the record and transcript. The city council's hearing shall be noticed according to the requirements of section 80-331(b)—(d), including published notice, sign, and letters to adjacent property owners. The hearing shall be open to the public, but public comment shall not be taken. At the hearing, the city council shall review the evidence presented below, which shall automatically include this chapter, the official zoning map, the city's file on the application, and any other city ordinance relevant to the dispute.
- (b) *Appeal to court.* Recourse from a decision of the city council shall be to a court of competent jurisdiction pursuant to law. Appeals shall be on the record.

Secs. 80-336—80-358. - Reserved.

### ARTICLE XIII. - AMENDMENTS

Sec. 80-359. - Initiation of amendments.

- (a) *Text amendment.* An application to amend the text of this chapter may be initiated by the planning commission or be submitted to the planning commission by the mayor and city council, zoning staff, or by any person having an interest in the city.
- (b) *Map amendment.* An application to amend the official zoning map may be initiated by the planning commission or be submitted to the planning commission by the mayor and city council or zoning staff, property owner or agent of the owner. Unless initiated by the mayor and city council, the planning commission or zoning staff, all applications to amend the official zoning map must be submitted by an owner of the affected property or an authorized agent of an owner, following procedures set forth in sections 80-360 and 80-361. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application. If a property has multiple owners, only one owner need file the application, and it will be assumed that the other owners consent;

however, if any owner does not consent to the application (or otherwise objects), the rezoning application will not go forward. If owned by a corporation or other entity, the application must be filed by a person with proper corporate or entity authority, and the Public Works Director may require documentation to support a claim of authority.

- (c) *Resubmission after denial.* In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until 12 months have passed from the date of the final decision by the mayor and city council.
- (d) *Alter conditions.* An application to alter conditions of rezoning may be submitted at any time after the final decision of the mayor and city council. The applicant must show a change in circumstances or additional information not available to the applicant at the time of the original decision by the mayor and city council to impose the condition. Another application to alter the same condition shall not be submitted more than once every 12 months, such interval to begin on the date of the final decision by the mayor and city council on said application to amend the condition.
- (e) *Withdrawal.* An application may be withdrawn without prejudice at any time prior to 6:00 p.m. on the day of the planning commission's hearing. The planning commission may give permission for a withdrawal without prejudice at its hearing. Withdrawal after the planning commission's hearing shall mean such application may not be resubmitted for consideration for a period of six months, counting from the date of withdrawal to the date of renewed application. Unless withdrawn at the hearing, the withdrawal must be in writing, signed and dated by the applicant.
- (f) *Campaign contribution disclosures.* Applicants and opponents to rezoning actions that change the zoning district on a parcel are requested to consult the Conflict of Interest in Zoning Act, O.C.G.A. § 36-67A-1, which requires disclosure of campaign contributions, made within two years of the rezoning application, and aggregating \$250.00 or more, to any planning commission member or city elected official. Such disclosures should be filed at least five calendar days prior to the planning commission's hearing on forms available at the zoning office. Violation of this Act shall not affect the validity of the rezoning, but such action may be a misdemeanor under O.C.G.A. § 36-67A-4.

Sec. 80-360. - Applications for amendments.

- (a) *Applications.* Each application required by this article, including, without limitation, to amend this chapter or the official zoning map, shall be filed with the Public Works Director. The following requirements for information are mandatory, unless the requirement is deleted by the Public Works Director: the Public Works Director may require additional information to evaluate the application, the suitability of the proposed use, and other aspects of any proposed development, and any such information shall be provided. Such information is not required for city-initiated applications.
- (b) *Procedure.* Zoning numbers will be issued to applicants, in order of request, starting on the first day applications are accepted. A schedule may be obtained from the zoning office. All applications must be complete and submitted by the end of the business day on the date the zoning number is issued. Incomplete applications will not be accepted, except with permission of the Public Works Director. Furthermore, applicants not filing a complete application on the date the zoning number is issued will forfeit their assigned number and will have to request a new number no sooner than the next available date to accept applications, once their application is complete and ready for submission.
- (c) *Text amendment applications.* Text amendment applications shall include the following minimum information, unless the requirements listed below are waived by the Public Works Director. Additional information may also be requested by the Public Works Director:
  - (1) Name and current address of the applicant;
  - (2) Current provisions of the text to be affected by the amendment;
  - (3) Proposed wording of text change; and

- (4) Reason for the amendment request.
- (d) *Zoning map amendment.* Official zoning map amendment applications shall include the following minimum information, unless the requirements listed below are waived by the Public Works Director. Additional information may also be requested by the Public Works Director:
- (1) A tax parcel card from the county tax assessor identifying the parcel to be rezoned, or the parent parcel of the parcel to be rezoned, if a split or subdivision is occurring;
  - (2) One copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. For subdivision or nonresidential developments, an additional electronic copy of the plat shall be submitted by the applicant, owner or developer to the engineering department;
  - (3) The present and proposed zoning district for the tract;
  - (4) Existing and intermediate regional floodplain and structures, as shown on the applicable Federal Emergency Management Agency FIRM rate maps;
  - (5) The names and addresses of the owners of the land and their agents, if any;
  - (6) The names and addresses of all adjoining property owners. In determining the adjoining property owners, streams and road, street or railroad rights-of-way shall be disregarded;
  - (7) No application for the rezoning of any property for a residential subdivision shall be accepted for filing unless the application is accompanied by a letter from the local government that will supply water to the property stating that public water is available to the property;
  - (8) On any rezoning of three or more acres to be subdivided into a residential subdivision, a soil survey prepared by a soil scientist, registered in the state, shall be submitted to the health department prior to application submittal to the zoning department, unless the property is served by sewer, unless all lots in the subdivision are three acres or larger in size, or unless the requirement is administratively varied by the Public Works Director; and
  - (9) Such other and additional information as may be requested by the Public Works Director.
- (e) *Application schedule.* Applications shall be submitted according to the schedule set by the Public Works Director and adopted by the planning commission. Application fees for an application to amend this chapter or the official zoning map shall be established by the mayor and city council and made available by the Public Works Director. A fee shall not be charged for applications initiated by the zoning staff, mayor and city council, or the planning commission.
- (f) *Proposed conditions.* With respect to amendments to the official zoning map, an applicant may file site plans, renderings, construction specifications, written development restrictions and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application.

Sec. 80-361. - Public notification.

- (a) *Legal notice.* Due notice of the public hearings pursuant to this article shall be published in the newspaper of general circulation within the city. Notice advertising the application and indicating date, time, place and purpose of the public hearings shall be published at least 15 days prior to the date of the scheduled hearing of the mayor and city council but not more than 45 days prior to the date of the first scheduled hearing conducted by the mayor and city council. If the application is for amendment to the official zoning map, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant. The notice shall also state:

"Notice is hereby given that the mayor and city council have the power to impose a different zoning classification from the classification requested, and impose or delete zoning conditions that may change the application considerably."

If the notice does not run in the newspaper in conformance with these requirements, the application is void and cannot be considered as scheduled. The applicant shall coordinate with the zoning office and re-advertise for a future hearing, as assigned by the staff.

- (b) *Signs posted.* The Public Works Director shall post, at least 15 days prior to the planning commission's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application and date, time and place of the public hearing.
- (c) *Letters to property owners.* The applicant shall notify each owner of property adjoining the property for which the amendment (other than a text amendment) is sought by mailing to each property owner a letter by first class mail, with proof of mailing obtained from the post office. Proof of mailing means either a first class certificate of mailing or a first class certified mail receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Notice shall also be provided by letter to such other impacted property owners or interest holders as the Public Works Director directs. The form letter provided by the city shall be used, or a letter conveying substantially the same information. Proof of mailing for each recipient shall be provided to the Public Works Director before the public hearing. Said notice must be mailed at least 15 days prior to the date of said scheduled public hearing.
- (d) *Exemptions.* The provisions of subsections (b) and (c) of this section shall not apply if the application is initiated by the zoning department staff, the planning commission or the city council.

Sec. 80-362. - Action by the planning commission.

- (a) *Public hearing.* The planning commission shall hold a public hearing on each application for an amendment pursuant to this article in accordance with a schedule adopted by the board. As to each application, the planning commission shall make a recommendation for approval, approval with conditions, or denial. A tie vote on any motion shall equate to denial. The planning commission may grant the applicant's request to withdraw without prejudice at its hearing.
- (b) *Tabling or remand.* The planning commission may table an application if new information has been submitted, or to provide the applicant time to revise an application. At the hearing in which the tabling is granted, the planning commission shall specify the date of the next hearing, and this action shall constitute public notice of such hearing, and no additional notices shall be required prior to the hearings.
- (c) *Report.* A written report or summary of the planning commission's recommendation shall be prepared by the zoning staff and shall be a public record. The planning commission's action may recommend amendments or conditions to the applicant's request which would reduce the land area for which the application is made, change the district requested, and recommend conditions of rezoning which may be deemed advisable so that the purpose of this chapter will, if applicable, be served, and health, public safety and general welfare secured.

Sec. 80-363. - Conduct of the planning commission's hearing.

- (a) *Sign up.* All persons who wish to address the planning commission at a hearing on the proposed amendment under consideration by the planning commission shall first sign up on a form to be provided by the city prior to the commencement of the hearing.
- (b) *Matter presented; out of order applications.* The secretary of the planning commission will read the proposed amendments under consideration in the order determined by the Public Works Director. The Public Works Director, or his designee, shall then present the amendment, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed amendment. If



an application is not complete, or all requirements of this article have not been complied with, the application is out of order and may be taken off the agenda. It shall be postponed until the next meeting of the planning commission. If the application has already been advertised and persons wishing to speak have appeared for the hearing, the board may choose to hear from them, but an additional hearing shall be required. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.

- (c) *Speakers.* The secretary of the planning commission will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and state his current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the board, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.
- (d) *Time limits.* In all circumstances, the proponent(s) and opponent(s) of each amendment shall have equal time and no less than ten minutes per side for presentation of data, evidence, and opinion thereon.
- (e) *Decorum and order.* Each speaker shall speak only to the merits of the proposed amendment under consideration and shall address his remarks only to the members of the planning commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed amendment under consideration. The chairperson may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to ensure that the public hearing on a proposed amendment is conducted in a fair and orderly manner.
- (f) These procedures shall be available in writing at each hearing.

Sec. 80-364. - Action by the mayor and city council.

- (a) *Public hearing.* Before taking action on a proposed amendment and after receipt of the planning commission's recommendations, the mayor and city council shall hold a public hearing on the proposed amendment, which shall be advertised as stated in section 80-361 and conducted pursuant to section 80-365.
- (b) *Powers of the mayor and city council.* At the public hearing, the mayor and city council shall review the analysis submitted by the initiating party and the recommendation prepared by the planning commission. So that the purpose of this chapter will be served, health, public safety and general welfare secured, the mayor and city council may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions of the application. The mayor and city council shall have the power to impose a different zoning classification from the classification requested, and impose any zoning conditions which ameliorate the impact of the zoning, or serve other lawful purposes of this chapter. The submission of an application for a rezoning shall be deemed notice of this power and consent to any such action. The mayor and city council may also remand the application, if it has been changed or for any reason, to the planning commission for further review and recommendation.
- (c) *Tabling application.* The mayor and city council shall have the power to table incomplete applications or to seek more time for further information to be submitted. The action by the mayor and city council to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application, and no further notice, such as that required by section 80-361, is required. The application can be tabled for up to three months at a time to obtain necessary information or for other reasons of the mayor and city council. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

Sec. 80-365. - Conduct of the mayor and city council's hearing.

- (a) *Sign up.* All persons who wish to address the mayor and city council at a hearing concerning a proposed zoning decision under consideration by the mayor and city council shall first sign up on a form to be provided by the city prior to the commencement of the hearing.
- (b) *Matter presented.* Proposed zoning decisions shall be called in the order determined by the Public Works Director. The Public Works Director or his designee will read the proposed zoning decision under consideration and summarize the departmental reviews pertaining thereto prior to receiving public input on said proposed zoning decision. If an application is not complete, or all requirements of this article have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.
- (c) *Speakers.* The Public Works Director or his designee shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and state his current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the mayor and city council, in their discretion, allow the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.
- (d) *Time limits.* In all circumstances, the proponent(s) and opponent(s) of each amendment shall have equal time and no less than ten minutes per side for presentation of data, evidence, and opinion thereon.
- (e) *Decorum and order.* Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the mayor and city council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The mayor and city council may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the mayor and city council from conducting the hearing in an orderly and decorous manner to ensure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.
- (f) These procedures shall be available in writing at all hearings.

Sec. 80-366. - Appeals to superior court.

Appeals of the grant or denial of a rezoning decision shall be taken within 30 days of the decision by filing an appeal in superior court, pursuant to law.

Sec. 80-367. - Standards for governing the exercise of zoning power.

The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. § 36-66-5(b):

- (1) The existing land uses and zoning classification of nearby property;
- (2) The suitability of the subject property for the zoned purposes;
- (3) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- (4) The extent to which the diminution of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- (5) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;

- (6) Whether the subject property has a reasonable economic use as currently zoned;
- (7) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- (8) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- (9) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- (10) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- (11) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
- (12) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

Secs. 80-368—80-392. - Reserved.

#### ARTICLE XIV. - SPECIAL USE PERMITS

Sec. 80-393. - Procedures.

- (a) An applicant for a special use permit shall file an application on forms provided by the Public Works Director. The grant or denial of a special use permit is a zoning decision and such decision shall follow the procedures for a rezoning, as specified in sections 80-361 through 80-365, unless modified by the provisions of this article.
- (b) Any use which may be authorized by a special use permit may be approved by the mayor and city council only if, in the exercise of the mayor and city council's legislative discretion, they find that:
  - (1) A proper application has been filed in accordance with the requirements of this article;
  - (2) A recommendation has been received from the planning commission in accordance with the provisions of article XIII of this chapter;
  - (3) The applicant is in compliance with the particular conditions for the proposed special use that are required by this article;
  - (4) The use is consistent with the purposes and intent of this article; and
  - (5) After considering the application and the facts, and the standards for making a zoning decision contained in section 80-367, the mayor and city council determine that the standards are satisfied such that the benefits of and need for the proposed special use outweigh any possible harmful effects, negative impacts, or damages to the neighboring properties or the city in general. In making this determination, the city council may consider the effects of the proposed use on traffic, public infrastructure and services, aesthetics, property values, the peaceful enjoyment of private property in the community, and other relevant factors.

Sec. 80-394. - Action by the mayor and city council.

The mayor and city council shall consider all evidence in the record in making their decision. This ordinance is automatically a part of the record in each case, as is the entire application file. The mayor and city council shall have the power to table the application for further information to be presented, or to remand the application to the planning commission if new information has been presented that they have not considered. The mayor and city council shall have the power to grant, deny, or grant with further specific conditions imposed.

Sec. 80-395. - Conduct of the hearing.

- (a) Hearings on special use permits shall follow the procedures of hearings on rezoning amendments, except as modified below:
  - (1) The applicant shall have at least 10 minutes to present his case, and submit all evidence and witnesses for the record, and opponents shall have equal opportunity to present their case. The applicant can request additional time if voluminous evidence is to be submitted, and may be granted at the discretion of the mayor and city council. Equal time shall be allowed to the opponent. The city, as represented by the Public Works Director or his designee, or the city attorney or his designee, shall have the right and equal time to present any witnesses and evidence into the record it chooses.
  - (2) The applicant or his attorney shall have a right to cross examine any witnesses in opposition to the application, and one representative or attorney of the opponents shall have a similar opportunity to cross examine the witnesses. The city shall also have a similar opportunity to cross examine all witnesses.
  - (3) The mayor and city council may question any witness, or request further information and table a decision for one month to await additional information or evidence. The mayor and city council may also request expert reports or studies relating to the request, and shall similarly table the application in such cases. An application may only be tabled one time without the consent of the applicant.
- (b) The hearing shall be recorded in some fashion and that recording preserved for 60 days after the decision, or during the pendency of any appeal that is filed in superior court.

Sec. 80-396. - Appeals to superior court.

Appeals of any decision to deny or grant a special use permit shall be filed within 30 days by filing an appeal to superior court, pursuant to law.

Sec. 80-397. - Reapplication.

An application for a special use which has been denied shall not be resubmitted for a period of 12 months.

Secs. 80-398—80-422. - Reserved.

ARTICLE XV. - LEGAL STATUS PROVISIONS

Sec. 80-423. - Conflict with other regulations.

Whenever the regulations of this chapter require a greater width or size of yards, courts, or other open spaces; require a lower height of buildings or smaller number of stories; require a greater percentage of lot to be left unoccupied; or impose other more restrictive standards than are required in or under any other ordinance or statute, the regulations and requirements of this chapter shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this chapter, the provisions of such statute or ordinance shall govern.

Sec. 80-424. - Separability/severability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. It is the intent of the mayor and city council that any provision declared unconstitutional shall be severed from the chapter and the remainder of the chapter remain in effect.

Sec. 80-425. - Repealer.

This chapter repeals and replaces the zoning ordinance existing immediately prior to its adoption. In the event that this chapter is struck down in its entirety as void, unconstitutional or invalid, including, therefore, this provision, that prior ordinance shall be considered to not have been repealed.

Sec. 80-426. - Official zoning map adopted.

The Official Zoning Map of Rossville, Georgia, is hereby adopted. Said map shall be that map signed by the mayor and dated contemporaneously with the adoption of this chapter. It is the intent of the adoption of this official zoning map to readopt and replace the previously existing zoning map; in the event that there are conditions of record applicable to individual properties as the result of prior zoning decisions, those conditions shall continue to be in force and shall not be repealed by the adoption of this official zoning map. The official zoning map shall be a public record, and it shall be available to the public for inspection during the regular business hours of the city.