

# **Chapter 17**

# **Zoning Update**

***Final Version***

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## ***CHAPTER 17.04 INTRODUCTORY PROVISIONS.***

### **Section 17.04.010. Purpose of Provisions.**

The ordinance codified in this Title 17 is an ordinance regulating the location, height, bulk, number of stories and size of buildings and other structures; the percentage of lots which may be occupied; the sizes of yards, courts and other open spaces; the density and distribution of populations; and the uses of buildings, structures and land for trade, industry, residences, recreation, agriculture, public activities and other purposes; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used in this Title; providing for the method of administration, amendment and enforcement and for the imposition of penalties for violation; providing for a board of appeals and defining the powers and duties; repealing conflicting ordinances; and for other purposes.

### **Section 17.04.020. Preamble and Enactment Clause.**

In pursuance of authority conferred by Georgia General Planning and Zoning Enabling Act of 1957 (Georgia Laws, 1957, p. 420 as amended), for the purpose of promoting the health, safety, prosperity and/or general welfare of the present and future inhabitants of the municipality; in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; and to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, being made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses and with a view to promoting desirable living conditions and the sustained stability of neighborhoods; protecting property against blight and depreciation; securing economy in governmental expenditures; conserving the value of buildings and encouraging the most appropriate use of land, buildings and other structures throughout the municipality, the governing body of the City does ordain and enact into this code the following chapters and sections.

### **Section 17.04.030. Short title.**

The ordinance codified in this Title 17 shall be known and may be cited as "the Zoning Ordinance of the City of McDonough, Georgia."

## CHAPTER 17.08 DEFINITIONS.

### Section 17.08.010. Interpretation of Certain Words and Terms.

Except as specifically defined in this Chapter, all words used in this Title have their customary dictionary definitions. For the purpose of this Title, certain words or terms used are defined as follows:

- A. Words used in the present tense include the future tense. Words used in the singular include the plural and words used in the plural include the singular.
- B. The words "shall" and "must" mean mandatory.
- C. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- D. The word "lot" includes the word "plot", or "tract".
- E. The word "building" includes the word "structure."
- F. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."
- G. The word "City" shall refer to the City of McDonough.
- H. The word "Director" shall refer to the Director of Community Development and/or their designee.
- I. The word "Mayor" shall refer to the Mayor and City Council of the City of McDonough and/or their designee.
- J. The term "BZA" shall refer to the Board of Zoning Appeals.
- K. The term "PC" shall refer to the Planning Commission.
- L. The term "SUP" shall refer to a Special Use Permit.
- M. The term "HPC" shall refer to the Historic Preservation Commission.
- N. The word "map" or "zoning map" means the "official zoning map" of the City.
- O. The term "Zoning Amendment" includes amending the Zoning Map.
- P. All measured distances shall be to the nearest whole foot;

### Section 17.08.020. Definitions.

If a definition is missing or questionable, the Director of Community Development shall be the final authority on any definition. For the purpose of this Title, certain words or terms used are defined as follows:

**Abandonment** means the relinquishment of property or a cessation of the use of the property for a continuous period of one (1) year by the owner with neither transferring rights to the property to another owner nor resuming the use of the property.

**Accessory Use or building** means a use or building customarily subordinate to the principal use or building and located on the same lot therewith.

**Accessory Dwelling Unit (ADU)** means a smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs are also known as granny flats, in-law units, backyard cottages, and secondary units.

**Adult Day Care Facility** means adult day care facilities shall include any building or portion thereof used to house six (6) or more adults requiring care, maintenance, and supervision of persons 18 years old or older for less than 24 hours per day.

**Age-Restricted Housing** refers to communities that are designed for people 55 and older. At least 80% of the units must be occupied by someone 55 or older, and the community must have policies to enforce this. These communities often have restrictions on when people under 18 can use amenities.

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

**Amenity Area** means a common area or areas within the Lands which are provided for the exclusive use of residents of a building for recreation or social purposes.

**Apartment** means one (1) or more rooms in an apartment building, with private bath and kitchen facilities or combination living space and commercial building, arranged, intended, designed, or occupied on a rental basis as a dwelling unit for a single family, an individual, or a group of individuals.

**Apartment Building** means a multi-family housing structure designed and constructed to accommodate three (3) or more dwelling units with independent cooking and bathroom facilities.

**Applicant** means the owner, owners, or legal representative of real estate who makes application for action affecting the real estate owned thereby.

**Application** means the application for, and all accompanying documents and exhibits required of a petitioner by an approving authority for a development review process.

**Art Use** means creation or assembly of visual art, including two- and three-dimensional works of fine art or craft, or other fine art objects created or assembled for purposes of sale, display, commission, or trade by artists or artisans. Art use may also include classes held for art instruction.

**Art/Artisan Gallery** means an establishment that engages in the sale, loan or display of paintings, sculptures, photographs, video art or other works of art. "Art gallery" does not include a cultural facility such as a library, museum or non-commercial gallery that may also display works of art or an arts studio.

**Artist** means a person who practices one (1) of the fine arts, design, graphic, musical, literary, computer, or performing arts; or a person whose profession relies on application of these skills to produce a creative product. The term includes, but is not limited to, individuals who practice visual arts, such as painters, print makers, illustrators, sculptors, potters, jewelry makers, glass makers, craft artists and photographers; performing arts, such as musicians, composers, playwrights, choreographers and dancers; literary arts, such as creative writers and literary translators; architecture and design, such as architects, landscape architects, engineers, urban designers and planners, interior designers and decorators, industrial designers, graphic designers and fashion designers; and media arts, such as filmmakers, video and audio artists and web-based designers.

**Assisted Living Facility** means a state licensed use in which domiciliary care is provided to adults (18 years or older) who are provided with food, shelter and personal services within independent living units which include kitchen facilities in which residents have

the option of preparing and serving some or all of their own meals. This use shall not include hospitals, convalescent centers, nursing homes, hospices, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Attached Building** means a building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings.

**Automobile** means a self-propelled, free-moving vehicle with four (4) wheels, usually used to transport not more than six (6) passengers and licensed by the appropriate state agency as a passenger vehicle.

**Automobile Collision Service** means a business where body, frame, or fender straightening or repairs; and overall painting of vehicles is performed.

**Automobile Repair, Major** means a business where engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles is performed.

**Automobile Repair, Minor** means a business that conducts repairs other than major repair including engine tune-up, muffler shops, shock absorber replacement shops, undercoating shops, and tire stores.

**Automobile Sales and Service** means the use of any building, land area, or other premises for the display and sale of new or used automobiles, generally, but may include light trucks or vans, trailers, or recreational vehicles and including any vehicle preparation or repair work conducted as an accessory use.

**Automobile Wash** means any building or premises or portions thereof used for washing automobiles. The facility for washing automobiles may be self-service, semi-automatic, or automatic application of cleaner, brushes, rinse water, and heat for drying.

**Autonomous Vehicle** means self-driving, free moving vehicle with four (4) wheels, including a combination of hardware and software, remote and/or on-board, that has the capability to drive a vehicle without active physical control or monitoring by a human operator.

**Basement** means a story partly underground but having more than one-half of its clear height below finished grade.

**Bed and Breakfast Facility** means an individual owner-occupied residence containing no more than six (6) guest rooms for hire, for lodging by prearrangement for periods not to exceed three (3) consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house, or motel.

**Boarding House** means a building, where for compensation, both lodging and meals are provided for not more than twenty (20) persons, provided that a single-family dwelling shall not be deemed to be a boarding house by reason of a contribution to or expense sharing arrangement with the owner or tenant occupying the dwelling by a person related by blood or marriage. For purposes of this code, a hotel, motel, halfway house, rooming house, group home, educational dormitory, or nursing home shall not be deemed a "boarding house."

**Brewpub Limited** means a commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises for on-site consumption in compliance with applicable state and federal laws.

**Buffer Strip** means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to applicable provisions of this Title, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district.

**Building** means any structure attached to the ground having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or personal property.

**Building Code** means the International Building Code pursuant to O.C.G.A. § 8-2-20.

**Building Height.** The vertical distance between the "ground" and the level of the highest point of the roof surface of a flat roof, the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof. For the purpose of measuring building height, the "ground" level is the highest of the following three levels: curb level; established or mean street grade if no curb exists; or the average existing ground level adjoining the building if the building is setback more than 10 feet from the street line.

**Building Inspector** means the person or persons charged with the responsibility of issuing building permits, inspecting buildings, and issuing certificates of occupancy. This person is certified by the state or the International Code Council (ICC) in one (1) or more disciplines; a residential or commercial building inspector, a plumbing, electrical or mechanical inspector or other specialty to inspect structures at different stages of completion.

**Building Permit** means a permit allowing a person, firm, or corporation to erect, construct, enlarge, alter, repair, relocate, improve, remove, convert, or demolish any building or structure or before starting any construction, excavation, or work within a subdivision within its jurisdiction, or the pursuit of changes to the condition of land.

**Building, Principal.** "Principal building" means a building in which the principal use of the lot is conducted on which such a building is situated. In any residential district, any structure containing a dwelling unit shall be defined as the principal building on the plot on which same is situated.

**Building Setback Line** means a line establishing the minimum allowable distance between the main or front wall of the building and the street right-of-way line when measured perpendicularly thereto. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into the required yard.

**Business** means the engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services; an occupation, employment, or enterprise which occupies time, attention, labor, and materials; or the maintenance or operation of offices, recreational, or amusement enterprises.

**Caliper** means the diameter or thickness of the trunk of a young tree or sapling measured at six (6) inches above the top of the root mass. This measurement is used for nursery-grown trees having a diameter of less than six (6) inches.

**Canopy** means a permanent roof-like structure projecting from a building and open on at least one (1) side for the purpose of shielding a pedestrian walkway from the elements, or a freestanding roof-like structure supported by columns intended to shield a vehicular driveway or service area from the elements.

***Carport*** means an open-sided roofed automobile shelter, formed by extension of the roof from the side of a building.

***Center Line of Street*** means the line surveyed and monumented by the City or Georgia Department of Transportation; if a center line has not been surveyed and monumented, it shall be that line running midway between the outside curbs or ditches of the street.

***Church*** See Place of Worship.

***Club or Lodge, Private*** means an association of persons, who are bona fide members paying annual dues, which owns, hires, or leases a building or portion thereof; the use of such premises being restricted to members and their guests.

***Commercial Vehicle*** means any truck or similar motorized mechanism designed to transport individuals or goods which is powered by an engine, and which is licensed by applicable governmental authorities as a commercial motor vehicle.

***Community Development Director or Director*** means the managing official or designee that directs, manages, and oversees the activities and operations of the Community Development Department, including all City planning, building safety, and code enforcement; coordinate assigned activities with other City departments and outside agencies.

***Comprehensive Plan*** means the official adopted comprehensive plan pursuant to the Georgia Planning Act of 1989 that includes goals, objectives, and strategies for land use, growth management, transportation or thoroughfares, community facilities and services, environment concerns, infrastructure, aesthetics and identity, economic development, and parks and recreation.

***Comprehensive Transportation Plan*** means the official adopted plan adopted as part of the Henry County Comprehensive Plan, as subsequently amended, which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares.

***Condition of Approval*** means stipulations or provisions that are provided above and beyond the minimum requirements that are set forth as a prerequisite for the approval of an application.

***Condominium*** means real estate lawfully subject to the Georgia Condominium Act, O.C.G.A. § 44-30-70 et seq. by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

***Covenants*** means private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider and/or developer, that are recorded with the plat and deed.

***Cul-de-sac*** means the turnaround at the end of a dead-end street.

***Curb Cut*** means any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property.

***Day Care Center*** means as defined by Rules and Regulations of the Georgia Department of Human Resources and for the purposes of the zoning ordinance, any place operated by a person, society, cooperation, institution, or group wherein are received for pay for

group care, for fewer than twenty-four (24) hours per day without transfer of legal custody, having nineteen (19) or more children under eighteen (18) years of age, and which is required to be licensed by both the City of McDonough and the Georgia Department of Human Resources.

**Decorative Wall** means a masonry wall consisting of brick, stone or similar materials as approved by the Director and constructed with a design that includes specific pattern elements or ornamentation.

**Deciduous** means a plant with foliage that drops or dies at the end of a growing season.

**Detached Building** means a building that has no structural connection with the principal building.

**Development** means new construction and any reconstruction, relocation, alteration, remodeling, or renovation of structures.

**Diameter Breast Height (DBH)** means the standard measure of tree size for trees six (6) inches or greater in caliper existing on a site. The tree trunk is measured at a height of four and one-half (4½) feet above the ground, and if a tree splits into multiple trunks below that point, the trunk is measured at its most narrow point beneath the split.

**Director** means the Director of the Community Development Department.

**Disabled.** The term "disabled" shall have the same definition as "handicapped" as set forth in the Fair Housing Act, 42 U.S.C. § 3602(h), and shall mean:

- a. A physical or mental impairment which substantially limits one (1) or more of a person's major life activities;
- b. A record of having such impairment; or
- c. Being regarded as having such impairment, but such term does not include the current, illegal use or addiction to a controlled substance or the current addiction to alcohol.

**Domestic Pets** are animals commonly used as household pets, protection, companions, and for the assistance of disabled persons. Domestic pets shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, and aquarium fish.

**Drainage Easement** means a grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of transporting stormwater.

**Drive-Through** means any facility that may be accessed directly by means of a motor vehicle for transacting business.

**Driveway** means an access-way connecting one (1) or more dwelling units and/or their parking spaces with a street.

**Dwelling** means a building or structure or portion thereof, conforming to all requirements applicable to the residential use districts of the zoning ordinance and Georgia Building Code used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multi-family dwelling units, but excluding hotels, boarding houses, and lodging houses.

**Dwelling, Duplex** means a residential building containing two (2) dwelling units designed for occupancy of not more than two (2) families. A duplex is limited to one-story only

with a maximum of three (3) bedrooms or 1,300 square feet per unit.

***Dwelling, 'For-Rent' in R-75 and R-60.***

- a. Unit—A residential unit designed to be leased or rented and occupied by a single family tenant and located in R-75 and R-60 “For Rent” Residential District.
- b. See Section 17.100.290.A. Standards for developing For-Rent Residential Units in R-75 and R-60.

***Dwelling, 'For-Rent' in RTD – Residential Townhouse District.***

- a. Unit—A residential unit designed to be leased or rented and occupied by a single family tenant.
- b. Building—A structure incorporating multiple rental units. (See Apartment.)
- c. See Section 17.100.290.B. Standards for developing For-Rent Residential Units in RTD – Residential Townhouse District.

***Dwelling, 'For-Rent' in MU – Mixed Use.***

- a. Unit—A residential unit designed to be leased or rented and occupied by a single family tenant.
- b. Building—A structure incorporating multiple rental units. (See Apartment.)
- c. See Section 17.100.290.C. Standards for developing For-Rent Residential Units in MU – Mixed Use District.

***Dwelling, 'For-Sale'.***

- a. Detached—A free-standing residential unit designed to be purchased and occupied by a single family.
- b. Townhouse—A residential unit attached to other residential units and designed to be purchased and occupied by a single family.
- c. Condominium—A type of property ownership in which a 'For-Sale' unit is purchased, and the purchaser of each unit acquires full title to the unit and an undivided interest in the common elements (the land, roof, elevator, etc.).

***Dwelling, Manufactured Home*** means a dwelling unit built in a factory bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards 42 U.S.C.A. 5401 et seq. and is installed and anchored on a permanent foundation and perimeter wall, according to the Georgia Manufactured Housing Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

***Dwelling, Mobile Home*** means a transportable dwelling unit manufactured prior to June 15, 1976, and not subject to the Federal Manufactured Housing Construction and Safety Standards 42 U.S.C.A. 5401 et seq.

***Dwelling, Multi-Family.*** "Multi-family dwelling" means a building designed for or occupied exclusively by three (3) or more families with separate housekeeping facilities for each family.

***Dwelling, Quadraplex*** means a building divided into four (4) self-contained residences.

***Dwelling, Single-Family.*** "Single-family dwelling" means a building designed or arranged



to be occupied by one (1) family only.

**Dwelling, Triplex** means a building divided into three (3) self-contained residences.

**Dwelling, Two-Family** means a residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.

**Dwelling Unit** means a building, or portion thereof, designed, arranged and used for living quarters for one (1) family, but not including units in structures designed for transient residence.

**Easement** means a grant by a property owner to specific persons, the general public, corporations, utilities, governments, or others, for a specified purpose.

**Electric Vehicle Charging Station (EVCS)** means structures, machinery, and equipment necessary and integral to support an EV, including battery chargers, rapid chargers, and battery exchange stations.

**Entertainment, live** means any musical act, including karaoke; theatrical act, including a play, revue or stand- up comedy; dance; magic act; disc jockey or similar activity performed live by one (1) or more persons, whether or not for compensation or an admission charge.

**Erosion** means the process by which land surface is worn away by the action of wind, water, ice, or gravity.

**Erosion, Construction** is a term used to describe the impact of construction on the environment. Man-made structures such as roads, buildings, and bridges have led to a large amount of soil erosion in the U.S. and around the world. Aftereffects such as reduced plant growth and large sediment deposits in rivers or lakes have become unfortunate realities in the construction industry.

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

**Façade** means the exposed exterior walls of any structure.

**Family** means an individual, or two (2) or more people if related by blood, marriage, adoption, or guardianship and not more than four (4) unrelated people, occupying a single dwelling unit and using the same cooking facilities.

**Family Day Care Home** means a residential home in which shelter, care, and supervision are provided for fewer than twenty-four (24) hours per day, without transfer of legal custody, having no more than six (6) children under eighteen (18) years of age who are not related to such individuals and whose parent or guardians are not residents in the same private residence. All family day care homes are required to be licensed by both the City of McDonough and the Georgia Department of Human Resources. All family day care homes shall meet the requirements of the adopted International Residential Building Code.

**Fence, Chain-link** means a fence constructed of galvanized steel or similar materials as approved by the building inspector for the purpose of enclosing or securing an industrial use or other areas at the discretion of the Director. Chain-link fences shall not include wire fences or fences of similar construction.

**Fence, Crossbuck** means a type of post and rail fence with two (2) horizontal rails and two boards in the middle that cross to form an "X" pattern.

**Fence, Decorative** means a fence consisting of wrought iron, galvanized steel, aluminum,

vinyl, wood, or similar materials fabricated into a design with specific pattern elements or ornamentation. Columns or support structures may consist of brick, stone or stucco that is architecturally consistent with the primary structure. All spaces in the fence shall be open and unobstructed and the fence shall not block vision to an extent greater than forty (40) percent. Ornamental fences shall not include chain-link or wire fences or fences of similar construction.

**Fence, Privacy** means a fence constructed of wood that blocks vision to an extent greater than forty (40) percent for the purpose of obscuring or screening an area from public view.

**Fence, Rail** means a fence constructed of wood, vinyl or similar materials and consisting of one (1) to four (4) horizontal rails connecting to vertical posts spaced a minimum of six (6) feet apart. All spaces in such fences shall be open and unobstructed and such fences shall not block vision to an extent greater than forty (40) percent.

**Fence, Temporary** means a fence constructed of canvas, plastic, chain-link, wood, or similar material as approved by the Director for the purpose of enclosing or securing an area for a maximum of 180 days.

**Fence, Wall** means a masonry wall consisting of brick, stone, or similar materials as approved by the Director and constructed for the purpose of enclosing, obscuring, or screening an area from view.

**Final Plat** means the final map, drawing or chart upon which the subdivider's as-built plan of subdivision is presented, and which, if approved, will be submitted for recording among the land records for Henry County.

**Floodplain** means the relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The floodplain includes the channel, floodway, and floodway fringe. Floodplain boundaries are to be determined by using the floodway-flood boundary maps of the Federal Insurance Administration/Federal Emergency Management Administration.

**Floodway** means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**Floor Area** means the sum of the gross horizontal areas of the several floors of the building enclosed by an exterior wall, excluding however, attic and basement floors, open porches, breezeways, and garages.

**Floor Area of a Building** (for determining off-street parking and loading requirements) means the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to a specific use; including accessory storage areas located within selling or working space such as counters, racks, or closets; and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

**Floor Area, Finished** means that portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space living rooms, areas for personal hygiene, or combination thereof.

**Floor Area, Ground** means that portion of finished floor area located on the first (or

nearest ground level) floor of the dwelling unit. The floor area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

**Food Truck** means a motorized vehicle or trailer drawn by a motorized vehicle used to prepare and sell food to the public directly from the vehicle or trailer.

**Front Yard** means the horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line.

**Garage** means a deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

**Golden Ratio Principle of Design** refers to a mathematical ratio, approximately equal to 1.618, that designers use to create visually appealing and balanced compositions by dividing elements within a design into parts where the ratio between the larger part and the smaller part is consistently 1.618, often considered aesthetically pleasing and naturally harmonious; it's also known as the "golden mean" or "divine proportion."

**Grade** means the average elevation of the ground on all sides of a building.

**Grading** means any land disturbing activity, including clearing, grubbing, stripping, cutting, filling, stockpiling, or any combination thereof, and shall include the land in its cut or filled condition.

**Group Day Care Home** means a home wherein group care for not less than seven (7) nor more than eighteen (18) children under eighteen (18) years of age for less than twenty-four (24) hours without transfer of legal custody and which is required to be licensed by both the City of McDonough and the Georgia Department of Human Resources. All group day care homes shall meet the requirements of the adopted International Residential Building Code.

**Group Home** means a dwelling unit or facility in which full-time residential care is provided for children under the age of seventeen (17) as a single housekeeping unit. The group residence may provide food, shelter, combination of personal care, social or counseling services and transportation. Bedroom suites shall not include kitchen facilities. The facility is required to be licensed by both the City of McDonough and the Georgia Department of Human Resources.

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

**Half-way House** means any building occupied by a group of not more than eight (8) unrelated individuals, provided that the majority of the occupants shall meet at least one (1) of the following criteria:

- a. Is on parole or probation, or has been ordered to reside in such type of facility as part of the criminal sentencing;
- b. Has been convicted of a felony and has completed his or her sentence;

- c. Is being treated at the facility for drug and/or alcohol dependency; or
- d. Is undergoing treatment for drug and/or alcohol rehabilitation.

**Height** means the vertical distance of a structure measured from the average elevation to the finished grade surrounding the structure of the highest point of the structure.

**Home Occupation** means any use, occupation or activity conducted entirely within a dwelling by the residents thereof, which is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display, no stock-in-trade nor commodity sold or stored in the premises, and no person not a resident on the premises is employed specifically in connection with the home occupation. Provided further that no mechanical equipment is installed or used except such as is normally used for domestic purposes, and that no more than fifteen (15) percent of the total heated floor space of any dwelling is used for such home occupation. Home occupation shall include the use of premises by a physician, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment, but not for the general practice of the profession.

**Homeowners' Association (HOA)** means a registered organization established to manage a residential community. The HOA enforces rules for the properties and its residents through a covenant. Generally responsible for maintaining the aesthetic and functional integrity of amenity and common areas.

**Hospital** means an institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three (3) or more unrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term "hospital" does not apply to institutions operating primarily for the treatment of insane persons, drug addicts, alcoholics, and other types of cases necessitating restraint of patients, and the term "hospital" shall not include convalescent, nursing, shelter, or boarding homes.

**Hotel** means a building in which lodging, or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

**Hotel, Extended Stay** means a hotel or motel offering individual rooms or suites containing a kitchen area with facilities where cooking is permitted.

**Infill** means the development of vacant, or remnant lands passed over by previous development in the area.

**Impervious surface** means any material that prevents absorption of stormwater into the ground.

**Industrial waste** means solid waste generated by manufacturing or industrial processes or operations as defined in O.C.G.A. § 12-8-22.

**Institutional Facility for the Developmentally Disabled** means a residential facility that provides care, supervision and protection and operates under a license issued under the Georgia Department of Human Resources; provides for delivery of mental health services that are appropriate to the needs of the individual; and complies with the rules adopted by the Georgia Department of Human Resources.

**Junk Yard** means a place, usually outdoors, where waste or discarded property, other than

organic matter, including, but not limited to, automobiles and farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or non-metal scrap materials such as, but not limited to, wood, paper, rags, garbage, tires, bones, and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as a junk yard. A junk yard may be considered as a primary or accessory use.

**Kennel** means a place primarily for keeping four (4) or more adult dogs, or other small animals that are ordinarily bred for sale as pets. This includes a temporary care facility for compensation.

**Kidney Dialysis Centers** mean an independent or hospital-based units/facilities, approved and licensed to furnish outpatient dialysis services (maintenance dialysis services, home dialysis training and support services or both) directly to end stage renal disease (ESRD) patient(s).

**Kindergarten** is a preschool educational approach based on playing, singing, practical activities such as drawing, and social interaction as part of the transition from home to school.

**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.

**Landscaping** means the improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains, and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

**Legal Non-Conforming Fence or Wall** means a fence or wall which was legally erected or installed but is no longer in compliance with the provisions of this article. Such fences or walls must be located outside of any existing right-of-way and wholly upon the parcel to which they are associated.

**Live-Work-Unit (LWU)** means property(s) that combine residential and non-residential uses in either commercial or residentially zoned areas.

**Living Fence** is a barrier made of living plants, such as trees, shrubs, or other vegetation

**Loading Space** means space logically and conveniently located for bulk pickups and deliveries, scaled to the size of delivery vehicles expected to be used.

**Locally Produced Agricultural Product** means agricultural products grown within a fifty-mile radius of the farm stand premises or produce acquired from any food distribution organization run in the State of Georgia dedicated to procuring produce from sustainable family farms.

**Lot** means a contiguous area of land separated from other areas of land by separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer of ownership or separate use.

**Lot, Corner.** "Corner lot" means a lot abutting the intersection of two (2) or more streets.

**Lot, Cul-de-sac** means any lot which has any portion of its road frontage abutting a cul-de-sac.

**Lot Coverage** means the area of a zoning lot occupied by the principal building and any accessory structures.

**Lot Depth** means the mean horizontal distance between front and rear lot lines.

**Lot, Double Frontage.** "Double frontage lot" means any lot, other than a corner lot, which has frontage on two (2) streets.

**Lot Line, Front.** "Front lot line" means the front property line that abuts a public right-of-way.

**Lot Frontage** means all property of a lot fronting on a street right-of-way or common, private drive, as measured between side lot lines.

**Lot of Record** means a lot which is part of a subdivision, a plat of which has been recorded in the records of the clerk of superior court of Henry County; or a parcel of land, the deed of which has been recorded in the same office as of the effective date of this Title 17.

**Lot Width** means the distance between side lot lines measured at the right-of way, except that the width of a cul-de-sac lot shall be measured at the building setback line.

**Lounge** means a separate room connected with a part of an adjacent to a restaurant or located in a hotel, with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and shall have a seating capacity for at least 50 persons. A lounge that is operated on a different floor in the premises or in a separate building or that is not connected to or adjacent to a restaurant shall be considered a separate establishment and an additional license fee shall be paid therefore.

**Major Street** means an existing or proposed street or highway designated as a major street on the official zoning map of the City.

**Microbrewery** means any establishment where malt beverages are produced or brewed, such as breweries and brewpubs.

**Mobile Home** means a single-family dwelling unit equipped with wheels, skids or rollers, which may be mounted on a stationary foundation and is used or designed to be used for permanent living or sleeping quarters.

**Mobile Home Park** means any parcel of land upon which two or more mobile homes occupied for dwelling purposes are located.

**Motel** means a building in which lodging, or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an external lobby or office supervised by a person in charge at all hours.

**Motor vehicle** means any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

**Nightclub** means an establishment having a capacity of at least 100 persons per the City of McDonough Fire Code, with all booths and tables unobstructed and open to view, dispensing alcoholic beverages and in which music, dancing or entertainment is conducted. All such establishments shall be equipped with air conditioning. The principal business of a nightclub shall be entertaining, and the serving of alcoholic

beverages shall be incidental thereto.

**Non-Conforming Building** means a building, structure, or portion thereof, which was designed, erected, or structurally altered in accordance with the provisions of a current such that it does not conform to the regulations of the zoning district in which it is located.

**Non-Conforming Lot of Record** means a lot that predates the zoning regulations and was created such that it does not conform to the regulations of the zoning district in which it is located.

**Non-Conforming Sign** means a sign or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

**Non-Conforming Use** means any building or use of land or building lawfully existing at the effective date of this Title 17 or as a result of subsequent amendments to this Title 17, which does not conform with the provisions of the regulations for the district in which it is located.

**Nursing Home** means a use in which domiciliary care is provided to three (3) or more convalescing, chronically or terminally ill non-family members who are provided with food, shelter and care. This use shall not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. Convalescent centers, nursing home and personal care home are further distinguished in administrative and conditional use provisions.

**Open Space** means an area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. Open space may include nature areas; streams and floodplains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

**Outdoor Storage** means the outdoor accumulation of goods, junk, cars, buses, tractor trailers, railroad cars, equipment, products, or similar materials for permanent or temporary holding.

**Overlay District** means a zoning district that encompasses one (1) or more underlying zones and that imposes additional requirements above that required by the underlying zoning district.

**Owner** means any person, group, of persons, firm, corporation or corporations, or any other legal entity having legal title to the land.

**Parking Deck** means a public or private structure, or a portion thereof composed of one (1) or more floors used exclusively for the parking of motor vehicles, whether public or private. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

**Parking Lot** means a group of parking spaces in an open area that may be of dirt, paved, or a hard surface not including any part of a street or alley, designed or used for temporary parking of motor vehicles.

**Parking Space** means a location that is designated for parking a vehicle. It can be in a

parking deck, in a parking lot, on a residential driveway, in a garage, or on a City street.

**Person** means a corporation, company, association, society, firm, partnership, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

**Personal Care Home** means a residential dwelling or facility in which are provided two (2) or more beds and other facilities and services, including room, meals, and personal care for non-family ambulatory adults, as regulated by the State of Georgia Department of Human Resources and the City of McDonough. The term "personal care home" does not include buildings which are devoted to independent living units which include kitchen facilities in which residents have the option of preparing and serving some or all of their own meals, nor does it include halfway houses, residential treatment facilities, nursing homes, sanitariums, hospitals, or other institutional facilities, or rooming or boarding facilities which do not provide personal care.

**Place of Assembly** means a place of assembly is a structure, portion of a structure or area (either indoor or outdoor), designed primarily for people to gather to observe or participate in a single event or series of events.

**Place of Worship** means any building, structure, or space where individuals or a group of people such as a congregation come to perform acts of devotion, veneration, or religious study. Temples, churches, mosques, and synagogues are examples of structures created for worship.

**Porch** means a roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

**Preliminary Plat** means the plan or map upon which the approval of a proposed subdivision is based on as described in this zoning ordinance, indicating the proposed layout of the subdivision to be submitted for approval.

**Preschool**, also known as nursery school, pre-primary school, play school or creche, is an educational establishment or learning space offering early childhood education to children before they begin compulsory education at primary school.

**Primary Building/Structure** means the building or structure in which the primary use of the lot or premises is located or conducted, with respect to residential uses, the primary building or structure shall be the main dwelling.

**Primary Care Physician/Dentist Office** means a specialist in family medicine, general internal medicine, dental or general pediatrics who provides definitive care to the undifferentiated patient at the point of first contact and takes continuing responsibility for providing the patient's comprehensive care.

**Professional Office** means an office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, realtors, or insurance agents and brokers.

**Public Health Center** (*immunizations, vital records, etc.*) means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

**Public Utility** means any person, firm, or corporation duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.



**Radius, Measurement of.** The distance shall be measured in a straight line from the outer property line of the proposed business to the closest property boundary line of an existing similar business. (Ex. gas station to gas station, pawn shop to pawn shop, etc.)

**Rear Lot Line** means the lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly shaped lot, the line ten (10) feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line.

**Rear Yard** means the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**Recreational Vehicle** means a vehicle which is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projections; designed to be self-propelled by a light duty truck; and designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use. A vehicle that is a temporary dwelling for travel, recreation, and vacation use.

**Recycling Center** means a lot or parcel of land, with or without buildings, upon which used household good materials are separated and processed for shipment for eventual reuse in new products.

**Registered Land Surveyor** means a land surveyor properly licensed and registered through reciprocity permitted to practice in the State of Georgia.

**Registered Professional Engineer** means an engineer properly licensed and registered through reciprocity permitted to practice in the State of Georgia.

**Residential Facility for the Developmentally Disabled/Mentally Ill** means a residential facility which provides residential services for persons with developmental disabilities or mental illnesses and such facility is licensed and regulated by the Georgia Department of Human Resources.

**Restaurant** means an establishment where food and drink are prepared, served, and consumed primarily within the principle building.

**Restaurant Drive-Thru** means an establishment where food and/or beverages are sold in a form ready for consumption, where all or significant portion of the consumption takes place or is designed to take place outside the confines of the restaurant, and where ordering and pick up of food may take place from an automobile.

**Restaurant, Walk-up** means an establishment where food is served in the form of ready consumption, where all or significant portion of sales are handled through a service window, door or room which is not designated as a dining area.

**Right-of-Way** means a strip of land acquired by reservation, dedication, prescription, or condemnation, and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

**Right-of-Way Width** means the distance between property lines measured at right angles of the centerline of the street.

**Road/Street** means any vehicular route that is an existing state, county, or municipal roadway; or is shown upon a plat approved pursuant to law. Road/ street

classifications are identified in the Comprehensive Transportation Plan.

**Road/Street, Private** means vehicular streets and driveways which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s), and a road/street that has not been accepted by the City or other governmental entity.

**Road/Street, Public** means all property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements, therefore.

**Rooming House** means a building, other than a motel or hotel, where for compensation, lodging only is provided for not more than twenty (20) persons. For purposes of this code section a hotel, motel, halfway house, boarding house, group home, educational dormitory, or nursing home shall not be deemed a "rooming house."

**School, Public/Private** means a public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Georgia School Laws, including pre- kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

**School, Vocational** means a specialized instructional establishment that provides on-site training of business, commercial, and/ or trade skills, a specialized curriculum for special needs individuals, and/ or the arts.

**Setback** means the minimum horizontal distance between the wall of the building or foundation and a lot line or right-of-way.

**Self-Storage Mini-Warehouse** means a building or group of buildings in a controlled-access and secured compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the storage of customers' goods or wares, and may include climate control.

**Self-Storage, Multi-Story Climate Controlled** means a multi-story building or group of buildings designed to mirror a class "A" commercial office space in a controlled-access and secured compound that contains varying sizes of compartmentalized and controlled access stalls or lockers for storage which are climate control are climate controlled to protect valuables from extreme heat or cold.

**Shopping Center** means a group of commercial establishments planned, developed, owned and managed as a unit with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves.

**Side Lot Line** means a lot boundary line other than a front or rear lot line.

**Side Yard** means the horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice- enclosed fire escapes, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**Smoke Shop** is a retail store that primarily sells tobacco products and accessories, and where the sale of other products is incidental.

**Street** means a dedicated or accepted public right-of-way which affords the principal

means of access to abutting properties.

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

**Structure** means a composition of materials to form a construction for use, occupancy, or orientation whether installed on, above, or below the surface of land or water.

**Substation** means an accessory use which serves as part or whole as an electrical generator transferring energy from one source to another. Also known as a high-voltage electric facility or support station.

**Temporary Use/Structure** means a land use or structure established for a limited and fixed period of time with the intent to discontinue such use or structure upon the expiration of the time period.

**Tiny Home** means alternative single-family detached housing type which incorporates sustainable building materials on the building facades with a minimum floor area of 400 feet. This type of housing shall be permitted within a Planned Unit Development which allows the flexibility of alternative housing and mixture of use within a comprehensive design.

**Tobacco Store** is a store that primarily sells tobacco products and accessories, and where the sale of other products is incidental.

**Townhouse** means a multi-family dwelling consisting of three (3) or more attached dwelling units, separated from others by a fire rated wall extending from the basement to the roof, each of which has primary ground floor access to the outside.

**Traffic Calming Device** means a physical feature installed within a public or private street, designed to reduce vehicle speeds often near residential areas. Often used to narrow access and reduce speed for safety precautions. Devices such as speed tables, rumble strips, curb extensions, or other approved devices managed by the City's Public Works Department.

**Tree** means any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three (3) inches, and typically has one (1) main stem or trunk and many branches.

**Urgent Care Centers** mean walk-in clinics that provide treatment for minor ailments and injuries outside of a traditional hospital-based or freestanding emergency department.

**Use** means the purposes of which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

**Use, Special Permitted** means a use that is designated by the zoning ordinance as being permitted in the district concerned if it meets special conditions, if found to be appropriate and upon application, is specifically authorized by the Mayor and City Council.

**Use, Primary** the main use of land or buildings as distinguished from an accessory use. A primary use may be either a permitted use or a special use.

**Use, Permitted** means a use which may be lawfully established in a particular district(s), provided it conforms to all requirements, regulations, and performance standards, if any, of such district.

**Variance** means a specific approval granted by the board of zoning appeals in the manner

prescribed by the zoning ordinance, to deviate from the development standards that the ordinance otherwise prescribes.

**Vehicle** means a device used as a mode of transportation of people and/or goods, including, but not limited to, automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles and like devices.

**Warehousing and Distribution Center** means land and building facilities engaged in storage, wholesale, and distribution of manufactured products, supplies, Data Centers and equipment.

**Wetland** means an area that is inundated or saturated by surface or ground water at a frequency and duration that under normal circumstances supports a prevalence of hydrophytic vegetation.

**Wireless Telecommunications Facility (WTF)** means any unmanned facility established for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A telecommunication facility can consist of one (1) or more antennas and accessory equipment or one (1) base station.

**Vape shop** shall mean any business whose product line for retail sale includes alternative nicotine products and/or vapor products.

**Yard** means a 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.** "Front yard" means a yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the principal building or any projections thereof other than projections of uncovered steps.

**Yard, Rear.** "Rear yard" means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distances between the rear of the principal building or any projections thereof other than the projections of uncovered steps.

**Yard, Side.** "Side yard" means a yard between the main building and the side yard of the lot and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of the principal buildings or any projections thereto.

**Zoning District** means a section of the City of McDonough, Georgia for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, are established by the zoning ordinance.

**Zoning Map** means a map of the City of McDonough, Georgia, that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction.

**Zoning Ordinances** means an ordinance or resolution of a local government establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein O.C.G.A. § 36- 66-3.

***Zero Lot Line*** means the location of a building on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

## **CHAPTER 17.12 - ZONING DISTRICTS ESTABLISHED**

### **Section 17.12.010. Zoning District Designations.**

For the purpose of this Title 17, the City is divided into sixteen (16) districts as follows:

- A. RA – Residential/Agricultural District.
- B. R-200 Single-Family Residential District.
- C. R-100 Single-Family Residential District.
- D. R-85 Single-Family Residential District.
- E. R-75 Single-Family Residential District.
- F. R-60 Single-Family Residential District.
- G. RM-75 Multi-Family Residential District.
- H. RTD Residential Townhouse District.
- I. O-1 Office Institutional District.
- J. C-1 Neighborhood Commercial District.
- K. C-2 Central Commercial District.
- L. C-3 Highway Commercial District.
- M. MU-Mixed Use District.
- N. M-1 Light Industrial District.
- O. M-2 Heavy Industrial District.
- P. PUD Planned Unit Development.

### **Section. 17.12.020. Zoning District Boundaries.**

- A. The boundaries of these districts are established as shown on the map entitled "Official Zoning Map, City of McDonough, Georgia," adopted by the Mayor and City Council on December 16, 2024, and certified by the City Clerk. The map is made a part of this Title 17, and all notations, references and other information thereon shall be as much a part of this Title 17 as if all the matter and information set forth by the map were fully described herein.
- B. If, in accordance with the provisions of this Title, changes are made in district boundaries or other subject matter portrayed on the map, such change shall be made on the official zoning map promptly after the amendment has been approved by the Mayor and City Council.
- C. Whenever any street, alley or other public way is vacated or abandoned by official action of the Mayor and City Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of same.

### **Section 17.12.030. Rules Governing Boundaries.**

Where uncertainty exists as to the boundaries of any district shown on the map, the following rules shall apply:

- A. Where boundaries are indicated as approximately following the center lines of streets, alleys or highways, street lines, or highway right-of-way lines, land lot lines, militia

district lines, lot lines or corporate limit lines, such lines shall be construed to be such boundaries as they existed at the time of the passage of this regulation.

- B. In subdivided property or tracts, where a district boundary divides a lot, the location of such boundaries, unless same are indicated by dimensions, shall be determined by use of the scale appearing on such maps.
- C. Where boundaries are so indicated that they are measured from or are approximately parallel to the center lines of streets or to the center lines of alleys or the center lines of highways, such boundaries shall be construed as being measured from or being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the map.
- D. Where a district boundary line divides a lot in single ownership at the time of enactment of this Title 17, the district requirements for the zoning for the primary frontage of such lot shall be deemed to apply to the whole thereof.

## **CHAPTER 17.16 - APPLICATIONS OF REGULATIONS**

### **Section 17.16.010. Use.**

No building or structure shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or in any manner other than a use designated in this Title, or amendments thereto, as permitted in the district in which such land, building, structure or premises is or are located.

### **Section 17.16.020. Height and Density.**

No building shall hereafter be erected or altered in any other manner contrary to the provisions of this Title, so as to:

- A. Exceed the height limits;
- B. Accommodate or house greater number of families and persons;
- C. Occupy a greater percentage of lot area; or
- D. Have narrower or smaller rear yards, front yards, side yards, courtyards or other open spaces.

### **Section 17.16.030. Lot Size.**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width, front, side or rear yards, lot area or other requirements of this Title are not maintained. Additionally, no variance is allowed to the lot width or lot area of any residential use district. This section shall not apply when a portion of a lot is required for a public purpose.

### **Section 17.16.040. Yard Use Limitations.**

No part of a yard, other open space, off-street parking or loading space required for any building for the purpose of complying with the provisions of this Title shall be included as part of the yard, off-street parking or loading space required for another building.

### **Section 17.16.050. Principal Building and Frontage.**

One principal building and its customary accessory buildings may be erected on any lot, except as authorized in other sections of this Title 17. Nor shall any buildings be erected on a lot which does not abut a public dedicated street for at least thirty (30) feet, except in the residential townhouse district (RTD).

### **Section 17.16.060. Reserved.**

### **Section 17.16.070. Use Prohibited When Not Specified.**

If not otherwise stated, any use not specifically permitted in a district shall be prohibited in that district.

### **Section 17.16.080. Double Frontage Lots.**

Where an existing double frontage lot faces a residential district on the opposite side, such a lot when zoned RTD, RM-75, OI, C-1, C-2, C-3, MU, M-1 or M-2 shall have vehicular access only from the major street and no access to the local streets within a residential district. All signs and advertising, if permitted in the OI, C-1, C-2, C-3, MU, M-1 or M-2 district, shall face the major street.



### **Section 17.16.090. Buffer Strip Required.**

All properties zoned or containing a use that is commercial, industrial and office-institutional shall have a buffer strip on any side or rear property lines adjacent to a residential district.

### **Section 17.16.100. Vested Rights.**

The purpose of this Section is to provide a method to recognize vested rights and works-in-progress that were authorized prior to the adoption of this Code.

#### **17.16.101. Applicability.**

- A. Any property zoned PUD (Planned Unit Development) prior to the adoption of this Code shall be subject to all development agreements and approved master plans until such time the property is rezoned.
- B. Any property that has been rezoned prior to the adoption of this Code shall meet all zoning conditions imposed regardless of any zoning change caused by the Code until such time the property is rezoned.
- C. Applicant shall be vested in any permit approved prior to the adoption of the Code until such time as permit expires.
- D. An expired application shall not be vested against any change in the zoning code, or any applicable building code, or any other ordinance of the City of McDonough.
- E. All flag lots platted and recorded prior to the adoption of this Code shall be considered legal, conforming lot of records.

### **Section 17.16.110. Expiration of Approvals.**

Most Development Projects commence quickly and finish within a reasonable time period, but not all projects do this, some Development Projects linger for months and years. For Development Projects that linger, the original approvals do expire after a set period of time.

- A. *Development Project Approval:* When a Project is approved Administratively by the BZA or by an Ordinance of the Mayor and City Council, the City assumes that the Project shall commence in a timely matter.
- B. *Approval Expirations:* The countdown for when an Approval expires begins on the day the project was originally approved by the City. The expiration period for various project types are as follows:
  - 1. Exterior Façade – Six (6) months with one (1) 90 day extension is allowed;
  - 2. Signs – Six (6) months with one (1) 90 day extension is allowed;
  - 3. Variances – One (1) year with one (1) 6-month extension is allowed;
  - 4. Zoning Amendment – One (1) year. Preliminary plat must have commenced, or the project must have made substantial progress. A Zoning Amendment is allowed two (2) 6-month extensions;
  - 5. Preliminary or Final Plat – If work has not commenced in One (1) year. Two (2) 6-month extension are allowed.
  - 6. Conditional Uses – One (1) year. Conditional Uses have to start the renewal process before the first year expires;

7. Special Use Permits - One (1) year. Special Use Permits have to start the renewal process before the first year expires;
  8. Concept Plan – One (1) year, no extensions;
  9. Land Development Permit – One (1) year with two (2) 6-month extensions are allowed.
  10. All Permit Applications that have not been approved within 180 days of the process being initiated (acceptance of 1<sup>st</sup> set of plans) shall expire after 180 days. Extensions are granted at the discretion of the Director.
- C. *Phased Projects*: The 1<sup>st</sup> Phase must begin within one (1) year of the initial approval. Subsequent Phases must start within one (1) year of the previous phase's completion. If not, the Approval on all subsequent phases will expire immediately, and the remaining phases of the project will revert to their pre-Approval state.
- D. *Extensions*: To file for an extension, the Community Development Office must receive an application for an extension 30 days before the Original Approval expires. Any extension requests received within less than 30 days of expiration will pay double the application fee. If an extension is requested within 30 days of the approval expiring, the application fee will be tripled.
- E. *Expiration*: Once the original approval expires, the City has the right to revert the property or use back to the state that the property existed before the Development Project was approved.
- F. *Previous Approvals*: Any Development Projects approved three (3) years before the effective date of Title 17: Zoning Update on January 1, 2025, these Development Projects have one (1) year to apply for an extension. If no extension is requested by January 1, 2026, the City shall reserve the right to let any previous approvals expire and revert to the state of the property prior to the original approval. Projects that received their approval prior to January 1, 2022, have one (1) year to contact the Community Development Department before their approvals may be rescinded or modified by action of the Mayor and City Council.

## CHAPTER 17.24 – “FOR SALE” RA RESIDENTIAL-AGRICULTURAL DISTRICT

### Section 17.24.010. District Intent.

This District is intended to preserve the mixed agricultural and residential character of land while providing a transition between rural and agricultural land and suburban and urban land; and locations to carry out agricultural activities, including those related to crops, livestock, and timber. This district will also provide for detached single-family residential dwellings that are site-built or modular on lots.

### Section 17.24.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.24.025. Density.

Maximum dwelling units per acre: 0.5 units per acre

### Section 17.24.030. Development Standards.

#### A. *Minimum Lot Area.*

- 87,120 square feet or two (2) acres for residential and agriculture uses

#### B. *Minimum Lot Width.*

- 200 feet abutting a street

#### C. *Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 75 feet on arterial or collector street
- 50 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 20 feet adjacent to interior line
- 30 feet adjacent to street

#### F. *Minimum Rear Yard Setback.*

- 40 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Minimum Heated Floor Area.*

- 2,500 square feet

#### I. *Maximum Lot Coverage.*

- 20 percent

#### J. *No variances shall be allowed to minimum Lot Width and minimum Lot Area with no exceptions.*

K. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.24.040. Architectural Standards.**

A. *Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half ( $\frac{1}{2}$ ) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are encouraged.
  - a. Roof eave brackets.
4. Rear facades shall incorporate covered porch with a minimum square footage of one-hundred and twenty (120) square feet.
5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

B. *Garages:*

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

C. *Mechanical:*

With all new residential construction, the outside portion of the HVAC systems shall be located on the side or rear of the home only and screened from public view.

D. *Landscaping*:

1. All disturbed areas shall be sodded and stabilized on the front, rear, and side yards.
2. Per the Code, two (2) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface.

E. *Driveways*: Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.

F. *Chimney*: Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or stucco materials.

G. *Accessory Structures*: Accessory structures shall be architecturally compatible with the primary structure to the greatest extent applicable. Agricultural structures are exempt from this regulation only if a building permit is obtained first.

## CHAPTER 17.26 - “FOR SALE” R-200 SINGLE-FAMILY ESTATE DISTRICT.

### Section 17.26.010. District Intent.

The R-200 residential district is intended for detached single-family estate dwellings that are custom-built at very low densities.

### Section 17.26.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.26.025. Density.

Maximum dwelling units per acre: 0.67 units per acre

### Section 17.26.030. Development Standards.

#### A. *Minimum Lot Area.*

43,560 square feet or One (1) acre for residential uses

#### B. *Minimum Lot Width.*

- 200 feet abutting a street

#### C. *Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 60 feet on arterial or collector street
- 50 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 20 feet adjacent to interior line
- 30 feet adjacent to street

#### F. *Minimum Rear Yard Setback.*

- 40 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Minimum Heated Floor Area.*

- 2,500 square feet

#### I. *Maximum Lot Coverage.*

- 20 percent

#### J. *No variances shall be allowed to minimum Lot Width and minimum Lot Area with no exceptions.*

#### K. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this

zoning district.

## **Section 17.26.040. Architectural Standards.**

### **A. Exterior Facade:**

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half ( $\frac{1}{2}$ ) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are encouraged.
- b. Roof eave brackets.
4. Rear facades shall incorporate a covered porch with a minimum square footage of one-hundred and twenty (120) square feet.
5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation.

### **B. Garages:**

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

### **C. Mechanical:**

With all new residential construction, the outside portion of the HVAC systems shall be located on the side or rear of the home only and screened from public view.

### **D. Landscaping:**

1. All disturbed areas shall be sodded and stabilized on the front, rear, and side yards.

2. Per the Code, two (2) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
  3. One (1) shrub for every two-hundred (200) square feet of impervious surface
- E. *Driveways*: Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.
- F. *Chimney*: Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or masonry finished materials.
- G. *Accessory Structures*: Accessory structures shall be architecturally compatible with the primary structure.
- H. *Repetitive Design*. Development of ten or more single-family residential buildings must have five or more different elevations, or a number of elevations equal to at least 10% of the number of lots in the development phase, whichever is more. (Different trim levels on houses with a nearly identical floor plan are not considered different elevations.) Houses of the same elevation, including those with identical, similar, or mirrored floor plans, cannot be placed on adjacent lots or directly across the street from each other.



## CHAPTER 17.28 - “FOR SALE” R-100 SINGLE-FAMILY RESIDENTIAL DISTRICT.

### Section 17.28.010. District Intent.

The R-100 Single-Family Residential District is intended to provide suitable open space and residential areas for single-family detached dwellings at low densities with access to public water and sewerage.

### Section 17.28.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.28.025. Density.

Maximum dwelling units per acre: 2.0 units per acre

### Section 17.28.030. Development Standards.

#### A. Minimum Lot Area.

- 21,780 square feet or one (1/2) acre for residential uses

#### B. Minimum Lot Width.

- 100 feet adjoining a street

#### C. Maximum Height.

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. Minimum Front Yard Setback.

- 50 feet on arterial or collector street
- 40 feet on local streets

#### E. Minimum Side Yard Setback.

- 20 feet adjacent to interior line
- 30 feet adjacent to street

#### F. Minimum Rear Yard Setback.

- 40 feet

#### G. Minimum Distance Between Buildings.

- 20 feet

#### H. Minimum Heated Floor Area.

- 2,000 square feet

#### I. Maximum Lot Coverage.

- 30 percent

#### J. Open Space and Amenity Requirement for Subdivisions in R-100, R-85, R-75, and R-60.

##### 1. 25 to 50 Lots

10% of the total gross acreage and must include an amenity package consisting of a

minimum of two (2) items from Section 17.120.090.

2. 51 to 100 Lots

20% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090.

3. 101 or More Lots

30% of the total gross acreage and must include an amenity package consisting of a minimum of four (4) items from Section 17.120.090. For every fifty (50) lots over 101, an additional amenity is required. An amenity can be repeated one (1) time with subdivisions with 200 or more lots.

4. All amenities or alternatives must be approved by the Director.

K. *Homeowners Association or Property Owners Association.*

All residential subdivisions are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

*No variances shall be allowed to minimum Lot Width and minimum Lot Area with no exceptions.*

L. *When a R-100 Single-Family Subdivision abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential lot and a major arterial road.*

N. *Other Regulations.*

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.28.040. Architectural Standards.**

A. *Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half ( $\frac{1}{2}$ ) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative Doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are encouraged.
  - e. Roof eave brackets.

4. Rear facades shall incorporate a covered porch with a minimum square footage of one-hundred and twenty (120) square feet.
5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

B. *Garages:*

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

C. *Mechanical:*

1. With all new residential construction, the outside portion of the HVAC systems shall be located on the side or rear of the home only and screened from public view.

D. *Landscaping:*

1. All disturbed areas shall be stabilized and sodded in the front, rear, and side yards.
2. Per the Code, two (2) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface.

E. *Driveways:* Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.

F. *Chimney:* Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or stucco.

G. *Accessory Structures:* Accessory structures shall be clad in the same materials as the primary structure.

H. *Repetitive Design.* Development of ten or more single-family residential buildings must have five or more different elevations, or a number of elevations equal to at least 10% of the number of lots in the development phase, whichever is more. (Different trim levels on houses with a nearly identical floor plan are not considered different elevations.) Houses of the same elevation, including those with identical, similar, or mirrored floor plans, cannot be placed on adjacent lots or directly across the street from each other.

I. *Portfolio of Architectural Plans (See Section 17.100.340 for more information)*

## CHAPTER 17.32 - “FOR SALE” R-85 SINGLE-FAMILY RESIDENTIAL DISTRICT.

### Section 17.32.010. District Intent.

The R-85 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities, with access to both public water and sewerage.

### Section 17.32.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.32.025. Density.

Maximum dwelling units per acre: 2.7 units per acre

### Section 17.32.030. Development Standards.

#### A. *Minimum Lot Area.*

- 16,000 square feet for residential uses

#### B. *Minimum Lot Width.*

- 85 feet adjoining a street

#### C. *Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 50 feet on arterial or collector street
- 40 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 10 feet adjacent to interior line
- 30 feet adjacent to street (Corner Lot)

#### F. *Minimum Rear Yard Setback.*

- 40 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Minimum Heated Floor Area.*

- a. 1,800 square feet

#### I. *Maximum Lot Coverage.*

- a. 40 percent

#### J. *Open Space and Amenity Requirement for Subdivisions in R-100, R-85, R-75, and R-60.*

##### 1. 25 to 50 Lots

10% of the total gross acreage and must include an amenity package consisting of a

minimum of two (2) items from Section 17.120.090.

2. 51 to 100 Lots

20% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090.

4. 101 or More Lots

30% of the total gross acreage and must include an amenity package consisting of a minimum of four (4) items from Section 17.120.090. For every fifty (50) lots over 101, an additional amenity is required. An amenity can be repeated one (1) time with subdivisions with 200 or more lots

4. All amenities or alternatives must be approved by the Director.

K. *Homeowners Association or Property Owners Association.*

All residential subdivisions are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

L. *No variances shall be allowed to the minimum Lot Width and minimum Lot Area with no exceptions.*

M. *When an R-85 Single-Family Subdivision abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential lot and a major arterial road.*

N. *Other Regulations.*

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.32.040. Architectural Standards.**

A. *Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half (½) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative Doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are encouraged.
  - e. Roof eave brackets.

5. Rear facades shall incorporate a covered porch with a minimum square footage of one-hundred and twenty (120) square feet.
6. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

**B. *Garages:***

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

**C. *Mechanical:***

1. All new residential construction air conditioning units and HVAC systems shall be located on the side or rear of the home only.

**D. *Landscaping:***

1. All disturbed areas shall be sodded and stabilized on the front, rear, and side yards.
2. Per the Code, two (2) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface

**E. *Driveways:*** Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.

**F. *Chimney:*** Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or masonry finished materials.

**G. *Accessory Structures:*** Accessory structures shall be architecturally compatible with the primary structure to the greatest extent applicable.

**H. *Repetitive Design.*** Development of ten or more single-family residential buildings must have five or more different elevations, or a number of elevations equal to at least 10% of the number of lots in the development phase, whichever is more. (Different trim levels on houses with a nearly identical floor plan are not considered different elevations.) Houses of the same elevation, including those with identical, similar, or mirrored floor plans, cannot be placed on adjacent lots or directly across the street from each other.

**I. *Portfolio of Architectural Plans* (See Section 17.100.340 for more information)**

## CHAPTER 17.36 “FOR SALE” R-75 SINGLE-FAMILY RESIDENTIAL DISTRICT.

### Section 17.36.010. District Intent.

The R-75 single-family residential district is intended to provide suitable areas for single-family detached dwellings at medium densities..

### Section 17.36.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.36.025. Density.

Maximum dwelling units per acre: 3.63 units per acre

### Section 17.36.030. Development Standards.

#### A. *Minimum Lot Area.*

- 12,000 square feet for residential uses

#### B. *Minimum Lot Width.*

- 75 feet adjoining a street

#### C. *Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 50 feet on arterial or collector street
- 35 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 10 feet adjacent to interior line
- 30 feet adjacent to street (Corner Lot)

#### F. *Minimum Rear Yard Setback.*

- 30 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Minimum Heated Floor Area.*

- 1,600 square feet

#### I. *Maximum Lot Coverage.*

- 50 percent

#### J. *Open Space and Amenity Requirement for Subdivisions in R-100, R-85, R-75, and R-60.*

##### 1. 25 to 50 Lots

10% of the total gross acreage and must include an amenity package consisting of a minimum of two (2) items from Section 17.120.090.

2. 51 to 100 Lots

20% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090.

3. 101 or More Lots

30% of the total gross acreage and must include an amenity package consisting of a minimum of four (4) items from Section 17.120.090. For every fifty (50) lots over 101, an additional amenity is required. An amenity can be repeated one (1) time with subdivisions with 200 or more lots

4. All amenities or alternatives must be approved by the Director.

*K. Homeowners Association or Property Owners Association.*

All residential subdivisions are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

*L. No variances shall be allowed to minimum Lot Width and minimum Lot Area with no exceptions.*

*M. When an R-75 Single-Family Subdivision abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential lot and a major arterial road.*

*N. Other Regulations.*

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.36.040. Architectural Standards.**

*A. Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half (½) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative Doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are encouraged.
  - e. Roof eave brackets.
4. Rear facades shall incorporate a covered porch with a minimum square footage of



one-hundred and twenty (120) square feet.

5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

**B. Garages:**

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

**C. Mechanical:**

1. All new residential construction air conditioning units and HVAC systems shall be located on the side or rear of the home only.

**D. Landscaping:**

1. All disturbed areas shall be sodded and stabilized on the front, rear, and side yards.
2. Per the Code, one (1) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface.

**E. Driveways:** Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.

**F. Chimney:** Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or masonry finished materials.

**G. Accessory Structures:** Accessory structures shall be architecturally compatible with the primary structure to the greatest extent applicable.

**H. Repetitive Design.** Development of ten or more single-family residential buildings must have five or more different elevations, or a number of elevations equal to at least 10% of the number of lots in the development phase, whichever is more. (Different trim levels on houses with a nearly identical floor plan are not considered different elevations.) Houses of the same elevation, including those with identical, similar, or mirrored floor plans, cannot be placed on adjacent lots or directly across the street from each other.

**I. Portfolio of Architectural Plans** (See Section 17.100.340 for more information)

**Section 17.36.050. "For Rent" R-75 Single-Family Residential District.**

The "For Rent" R-75 Single-Family Residential District shall meet all requirements of the "For Sale" R-75 Single-Family Residential District plus all supplementary requirements found in Section 17.100.290.A. Standards for developing For-Rent Residential Units R-75 and R-60.

## CHAPTER 17.38 - “FOR SALE” R-60 SINGLE-FAMILY RESIDENTIAL DISTRICT.

### Section 17.38.010. District Intent.

The R-60 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities, with access to both public water and sewage. The district requirements are designed to insure high-quality and secure development with maximum utilization of existing land.

### Section 17.38.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.38.025. Density.

Maximum dwelling units per acre: 5.4 units per acre

### Section 17.38.030. Development Standards

#### A. *Minimum Lot Area.*

- 8,000 square feet for residential uses

#### B. *Minimum Lot Width.*

- 60 feet adjoining a street

#### C. *Maximum Height.*

- a. 35 feet in for primary structure
- b. 15 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- c. 30 feet on arterial or collector street
- d. 30 feet on local streets

#### E. *Minimum Side Yard Setback.*

- e. 10 feet adjacent to interior line
- f. 30 feet adjacent to street (Corner Lot)

#### F. *Minimum Rear Yard Setback.*

- g. 20 feet

#### G. *Minimum Distance Between Buildings.*

- h. 20 feet

#### H. *Minimum Heated Floor Area.*

- i. 1,600 square feet

#### I. *Maximum Lot Coverage.*

- j. 50 percent

#### J. *Open Space and Amenity Requirement for Subdivisions in R-100, R-85, R-75, and R-60.*

1. 25 to 50 Lots

10% of the total gross acreage and must include an amenity package consisting of a minimum of two (2) items from Section 17.120.090.

2. 51 to 100 Lots

20% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090.

i. 101 or More Lots

30% of the total gross acreage and must include an amenity package consisting of a minimum of four (4) items from Section 17.120.090. For every fifty (50) lots over 101, an additional amenity is required. An amenity can be repeated one (1) time with subdivisions with 200 or more lots

4. All amenities or alternatives must be approved by the Director.

*K. Homeowners Association or Property Owners Association.*

All residential subdivisions are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

*L. No variances shall be allowed to the minimum Lot Width and minimum Lot Area with no exceptions.*

*M. When an R-60 Single-Family Subdivision abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential lot and a major arterial road.*

*N. Other Regulations.*

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.38.040. Architectural Standards.**

*A. Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, cementitious shakes, or wood shakes. A minimum of 40 percent brick or stone shall be required. If the structure is two (2) stories, the entire 1st floor must be brick from the first-floor slab to the height of the subfloor on the second floor. Vinyl can be utilized in eaves and soffit areas only.
2. The remaining sides of residential dwellings shall have a minimum of 25 percent brick or stone, with remaining materials being of stucco or cementitious siding.
3. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half ( $\frac{1}{2}$ ) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall have a minimum depth of six feet.
  - c. Decorative windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Decorative Doors shall be paneled with or without a window, and the window shall be made of safety glass. Sidelights (in pairs only) and Transoms windows are

encouraged.

e. Roof eave brackets.

4. Rear Facades shall incorporate a covered porch with a minimum square footage of one-hundred and twenty (120) square feet.
5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

B. *Garages:*

1. All single-family detached dwellings shall have an attached or detached two car garage with minimum dimensions of 25 feet width by 25 feet length. The garage's entry façade shall be dimensioned with a minimum of Two (2) feet on one side, a sixteen (16) feet garage door, and the remaining seven (7) feet on opposite side of the garage door.
2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
3. The garage shall feature a secondary door to the interior of the house or to the outside.
4. This size of garage is the minimum size for all single-family detached residences and shall serve as required parking for two (2) automobiles only, no exceptions.

C. *Mechanical:*

1. All new residential construction air conditioning units and HVAC systems shall be located on the side or rear of the home only.

D. *Landscaping:*

1. All disturbed areas shall be sodded and stabilized on the front, rear, and side yards.
2. Per the Code, one (1) medium to large trees and one (1) small tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface.

E. *Driveways:* Driveway landing must be at least 30 feet deep and not protrude into the sidewalk and have no more than a one (1) degree incline.

F. *Chimney:* Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or masonry finished materials.

G. *Accessory Structures:* Accessory structures shall be clad in the same materials as the primary structure.

H. *Repetitive Design.* Development of ten or more single-family residential buildings must have five or more different elevations, or a number of elevations equal to at least 10% of the number of lots in the development phase, whichever is more. (Different trim levels on houses with a nearly identical floor plan are not considered different elevations.) Houses of the same elevation, including those with identical, similar, or mirrored floor plans, cannot be placed on adjacent lots or directly across the street from each other.

I. *Portfolio of Architectural Plans (See Section 17.100.340 for more information)*

**Section 17.38.050. “For Rent” R-60 Single-Family Residential District.**

The “For Rent” R-60 Single-Family Residential District shall meet all requirements of the “For Sale” R-60 Single-Family Residential District plus all supplementary requirements found in Section 17.100.290.A. Standards for developing For-Rent Residential Units R-75 and R-60.

## CHAPTER 17.40 - RM-75 MULTI-FAMILY RESIDENTIAL DISTRICT.

### Section 17.40.010. District Intent.

The RM-75 multi-family residential district is intended to provide suitable areas for duplexes; triplexes; quadplexes; townhouses (built for rent only); multiple family residential; and age restricted dwellings at medium densities with access to both water and sewerage.

### Section 17.40.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.40.025. Density.

Maximum dwelling units per acre: 6.0 units per acre

### Section 17.40.030. Development Standards.

#### A. *Minimum Lot Area for the Development.*

- 217,800 square feet or five (5) acres for residential

#### B. *Minimum Lot Width for the Development.*

- 250 feet adjoining a street

#### C. *Maximum Height.*

- Three (3) Stories or 35 feet in for primary structure
- 15 feet for accessory structure

#### D. *Minimum Front Yard Setback for the Development.*

- 50 feet on arterial or collector street
- 50 feet on local streets

#### E. *Minimum Side Yard Setback for the Development.*

- 50 feet adjacent to interior line
- 50 feet adjacent to street

#### F. *Minimum Rear Yard Setback for the Development.*

- 50 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Minimum Heated Floor Area.*

- 600 square feet for an efficiency unit
- 800 square feet for one bedroom unit.
- 1000 square feet for two-bedroom unit.
- 1,300 square feet for three or more-bedroom units.

#### I. *Maximum Lot Coverage.*

- 50 percent

#### J. *Open Space and Amenity Requirement.*

30% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090.

*K. No variances shall be allowed to the minimum Lot Width and minimum Lot Area with no exceptions.*

*L. When an RM-75 Multi-Family Subdivision abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential use and a major arterial road.*

*M. Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

#### **Section 17.40.040 Architectural Standards.**

*A. Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, or cementitious shakes.
  - a. On the first floor, all façades shall be clad in brick or stone up to the floor level of the second level.
  - b. Any floor above the 1<sup>st</sup> floor can be brick, stone, stucco, cementitious siding or cementitious shakes.
  - c. Vinyl can be utilized in eaves and soffit areas only.
2. The exterior front façade shall be articulated to give the facade more depth and character.
3. Walls visible from a public street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials.
4. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half (½) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered Porches or Balconies – Porches or Balconies shall have a minimum depth of six feet.
  - c. Decorative Windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom.
  - d. Roof Eave Brackets.
5. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.

*B. Mechanicals:*

1. With all new construction, the outside portion of the HVAC system shall be located on the side or rear of the structure only and screened from public view.
2. The Electric Meter(s) and Panel(s) shall be screened from the public view using the following methods:
  - a. Decorative Cover,

- b. Fence Panel or Wall,
- c. Shutters, or
- d. Landscaping

All screening methods shall allow for easy access with enough clearance for maintenance and repairs.

C. *Accessory Structures*: Accessory structures shall be clad in the same materials as the primary structure.

D. *Roofs*:

- 1. All buildings shall have pitched roofs.
- 2. The roofline may include varying lines customary with gable or hip style roofing.
- 3. Dormer windows or vents are encouraged.
- 4. Permitted roofing materials include asphalt shingles, standing-seam metal roof, and slate.

E. *Dumpster Enclosures* shall meet all requirements determined by the City's Building Department

#### **Section 17.40.050. Plan Review.**

Before a building permit can be issued in an RM-75 district for any development, a preliminary site plan that includes an amenity layout, a concurrency report for water and sewer, and a traffic impact analysis shall be submitted to, and approved by, the Mayor and City Council in accordance with the provisions of Chapter 16.12 of the City of McDonough Code of Ordinances.



## CHAPTER 17.44 - “FOR SALE” RTD - RESIDENTIAL TOWNHOUSE DISTRICT

### Section 17.44.010. District Intent.

This district is composed of certain lands in the City intended to be used for medium density residential development. The district requirements are also designed to provide quality development, variety in housing concepts, and to promote individual home ownership.

### Section 17.44.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.44.025. Density.

Maximum dwelling units per acre: 6.0 units per acre

### Section 17.44.030. Development Standards

#### *A. Minimum Lot Area.*

- 87,120 square feet or two (2) acres

#### *B. Minimum Lot Width for the Development.*

- 100 feet adjoining a street

#### *C. Minimum Lot Width for the Individual Unit.*

- 25 feet

#### *D. Maximum Height.*

- 35 feet in for primary structure
- 15 feet for accessory structure

#### *E. Minimum Front Yard Setback for Development.*

- 30 feet on arterial or collector street
- 30 feet on local streets

#### *F. Minimum Front Yard Setback for an Individual Townhouse Unit*

- 20 feet on any interior street

#### *G. Minimum Side Yard Setback for Development.*

- 50 feet adjacent to interior line
- 50 feet adjacent to street (Corner Lot)

#### *H. Minimum Rear Yard Setback for the Development.*

- 30 feet for residential uses
- 50 feet for commercial uses

#### *I. Minimum Distance Between Buildings.*

- 20 feet

#### *J. Minimum Rear Yard Setback for the Individual Unit Development.*

- 20 feet

*K. Minimum Heated Floor Area.*

- 1300 square feet for two-bedroom unit.
- 1,500 square feet for three-bedroom unit.

*L. Maximum Lot Coverage.*

- 50 percent

*M. Open Space and Amenity Requirement for RTD – Residential Townhouse District.*

1. 25 to 50 Lots

10% of the total gross acreage and must include an amenity package consisting of a minimum of two (2) items from Section 17.120.090.

2. 51 to 100 Lots

20% of the total gross acreage and must include an amenity package consisting of a minimum of two (2) items from Section 17.120.090.

3. 101 or More Lots

30% of the total gross acreage and must include an amenity package consisting of a minimum of three (3) items from Section 17.120.090. For every fifty (50) lots over 101, an additional amenity is required. An amenity can be repeated one (1) time with subdivisions with 200 or more lots

4. All amenities or alternatives must be approved by the Director.

*N. Homeowners Association or Property Owners Association.*

All “For Sale” RTD – Residential Townhouse Districts are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

*O. No variances shall be allowed to the minimum Lot Width and minimum Lot Area with no exceptions.*

*P. When an RTD Residential Townhouse District abuts a major arterial road, a one-hundred (100) foot landscape/natural buffer is required between any residential use and a major arterial road.*

*Q. Other Regulations.*

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.44.040. Architectural Standards.**

*A. Exterior Facade:*

1. The exterior front facade of residential dwellings shall include accents of brick, stone, stucco, cementitious siding, or cementitious shakes.
  - a. The front façade shall be a minimum requirement of 50 percent brick or stone.
  - b. If the structure is two (2) stories or higher, the entire 1st floor must be brick from the first-floor slab to the floor of the second level.

- c. Vinyl can be utilized in eaves and soffit areas only.
- 2. The exterior front façade shall be articulated to give the facade more depth and character.
- 3. The side and rear facades shall be 100% brick.
- 4. Walls visible from a public street or other residential uses shall include windows and architectural features similar to the front facade of the building, including, but not limited to awnings, cornice work, edge detailing or other decorative finish materials.
- 5. Front facades shall incorporate at least two of the features listed below.
  - a. Shutters – The dimensions are half ( $\frac{1}{2}$ ) the width of the window by the length of the window without trim. Absolutely no plastic or vinyl shutters are permitted.
  - b. Covered porch – Front porches shall be a minimum of 100 square feet with a depth of six feet.
  - c. Decorative Windows – Palladian, Arched, Bay, Bow, Garden, Circular, or Transom. A bay or bow window may intrude into the front setback two (2) feet by right in at least 25% of units in a grouping.
  - d. Decorative Doors shall be paneled with or without a window. Sidelights (in pairs only) and Transoms windows are encouraged.
  - e. Roof Eave Brackets.
- 4. Gutters must be installed along the roof line of the dwelling and appropriately placed downspouts pointing away from the foundation and sidewalks.
- B. *Garages:*
  - 1. All townhouses shall have an attached or detached two car garage with minimum dimensions of 20 feet width by 25 feet length located at the rear of each townhouse.
  - 2. Attached and detached garages shall be enclosed on all sides and architecturally consistent with the primary structure.
  - 3. A secondary exit door shall be required from all garages.
  - 4. There shall be access to the rear of each townhouse unit from the rear alley without going through the garage.
  - 5. There are no exceptions to the rear-only garage requirement in a Residential Townhouse Development.
- C. *Mechanical:*
  - 1. With all new construction, the outside portion of the HVAC system shall be located on the side or rear of the structure only, and screened from public view by a fence panel, wall, or landscaping.
  - 2. The Electric Meter and Panel shall be mounted on the rear façade of each individual townhouse with full access from the rear alley
  - 3. All screening methods shall allow for easy access with enough clearance for maintenance and repairs.
- D. *Landscaping:*

1. All disturbed areas shall be stabilized and sodded in the front, rear, and side yards.
2. One (1) tree must be planted in the front yard of each new single-family detached dwelling.
3. One (1) shrub for every two-hundred (200) square feet of impervious surface
4. Each fee simple lot and all common areas shall be provided with automatic underground outdoor lawn sprinklers for all landscaped areas.

E. *Decks:*

1. Decks are permitted only when located at the rear of the principal structure and such decks shall be no wider than the width of the principal structure.
2. Decks must fit within all required setbacks.

F. *Fencing:* When the garage is detached, each unit shall feature a rear yard that is enclosed on two sides by the primary structure and attached or detached garage. The remaining sides shall be enclosed by a six (6) foot, opaque fence.

G. *Chimney:* Chimneys located on the exterior building wall of the dwelling must extend to the ground and be clad in brick, stone, or stucco.

H. *Accessory Structures:* Accessory structures shall be clad in the same materials as the primary structure and limited to a maximum of 100 square feet.

I. *Roofs:*

1. All buildings shall have pitched roofs.
2. The roofline may include varying lines customary with gable or hip style roofing.
3. Dormer windows or vents are encouraged.
4. Permitted roofing materials include asphalt shingles, standing-seam metal roof, and slate.

J. *Trash Receptacles:* All trash receptacles are to be stored inside the owner's garage until their assigned trash pickup day.

**Section 17.44.050. Buffer Strip.**

- A. A 25-foot wide buffer strip shall be required whenever the project site abuts any property which is zoned for residential, commercial, or industrial use.
- B. The project site for a Residential Townhouse District is the entire parcel of land for which townhouse units are to be developed.

**Section 17.44.060. Streets.**

All streets within the RTD shall be public and constructed according to the subdivision regulations of the City. RTD districts shall not be gated, no exceptions.

**Section 17.44.070 Plan review.**

Before a building permit can be issued in an RTD district for any development, a preliminary site plan that includes an amenity layout, a concurrency report for water and sewer, and a traffic impact analysis shall be submitted to, and approved by, the Mayor and City Council in accordance with the provisions of Chapter 16.12 of the City of McDonough Code of Ordinances.

**Section 17.44.080. “For Rent” RTD – Residential Townhouse District.**

The “For Rent” RTD – Residential Townhouse District shall meet all requirements of the “For Sale” RTD – Residential Townhouse District plus all supplementary requirements found in Section 17.100.290.B. Standards for developing For-Rent Residential Units in RTD – Residential Townhouse District.

## **CHAPTER 17.56. OI - OFFICE/INSTITUTIONAL DISTRICT.**

### **Section 17.56.010. District Intent.**

The OI office/institutional district is intended to encourage and provide suitable areas for business and professional offices, hospitals, medical and dental clinics and certain related activities, with a minimum of interference from traffic and conflicting uses.

### **Section 17.56.020. Uses.**

See Section 17.90.40. Use Table.

### **Section 17.56.030. Development Standards.**

#### *A. Minimum Lot Area.*

- 43,560 square feet or one (1) acre

#### *B. Minimum Lot Width.*

- 50 feet adjoining a street

#### *C. Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### *D. Minimum Front Yard Setback.*

- 50 feet on arterial or collector street
- 50 feet on local streets

#### *E. Minimum Side Yard Setback.*

- 30 feet adjacent to interior line
- 30 feet adjacent to street (Corner Lot)

#### *F. Minimum Rear Yard Setback.*

- 30 feet

#### *G. Minimum Distance Between Buildings.*

- 20 feet

#### *H. Maximum Lot Coverage.*

- 70 percent

#### *I. Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### **Section 17.56.040. Architectural Standards.**

#### *A. Exterior Facade:*

On all roadways where buildings or parts thereof are visible, all exposed exterior wall sidings shall be composed of the following Building Materials.

1. The first floor shall be either brick, natural stone, high-grade stucco; glass; or exposed concrete block, with metal and/or tile as an accent only.
2. The second floor and above shall be either brick, high-grade stucco; glass; or a combination.
3. The installation of windows are encouraged on all facades to provide natural light into the building's interior spaces and to add visual interest to the facades.
4. Materials not listed may be presented to the Director for classification.

**B. Site Standards**

1. The front setback for the primary structure can be reduced to twenty (20) feet along major arterials that have been expanded to four (4) or more lanes, and where additional Right-of-Way has been purchased but construction has not started.
2. With the reduced front setback to twenty (20) feet, all required parking shall be located between the rear of the primary structure and the landscape/natural buffer at the rear of the property. Only driveways are allowed to cross the front setback.

**C. Landscape Requirements (see Section 17.120.020).**

**D. Parking Lot Requirements (see Section 17.120.026).**

**Section 17.14.050. Buffer Requirement**

When an OI district abuts a residential zoning district, a twenty-five (25) feet buffer is required.

## CHAPTER 17.60 - C-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

### Section 17.60.010. District Intent.

The C-1 Neighborhood Commercial District is intended to provide suitable areas for the provision of retail goods and services to surrounding residential neighborhoods. The regulations of the district are designed to minimize traffic and parking congestion for the surrounding residential areas.

### Section 17.60.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.60.030 Development Standards

#### A. *Minimum Lot Area.*

- 43,560 square feet or one (1) acre

#### B. *Minimum Lot Width.*

- 75 feet adjoining a street

#### C. *Maximum Height.*

- 35 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 40 feet on arterial or collector street
- 30 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 10 feet adjacent to interior line
- 20 feet adjacent to street (Corner Lot)

#### F. *Minimum Rear Yard Setback.*

- 50 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Maximum Lot Coverage.*

- 70 percent

#### I. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### Section 17.60.040 Architectural Standards.

#### A. Exterior Façade:

On all roadways where buildings or parts thereof are visible, all exposed exterior wall sidings shall be composed of the following Building Materials.



1. The first floor shall be either brick, natural stone, glass, concrete, and/or tile.
2. The second floor and above shall be either brick, high-grade stucco; glass; or a combination.
3. The installation of windows are encouraged on all facades to provide natural light into the building's interior spaces and to add visual interest to the facades.
4. Materials not listed may be presented to the Director for classification.

**B. Site Standards**

1. The front setback for the primary structure can be reduced to twenty (20) feet along major arterials that have been expanded to four (4) or more lanes, or where additional Right-of-Way has been purchased but construction has not started.
2. With the reduced front setback to twenty (20) feet, all required parking shall be located between the rear of the primary structure and the landscape/natural buffer at the rear of the property. Only driveways are allowed to cross the front setback.

**C. Landscape Requirements (see Section 17.120.020).**

**D. Parking Lot Requirements (see Section 17.120.026).**

**Section 17.60.050 Buffer Requirement**

When a C-1 district abuts a residential zoning district, a twenty-five (25) foot wide buffer strip is required.

## CHAPTER 17.64. C-2 CENTRAL COMMERCIAL DISTRICT.

### Section 17.64.010 District Intent.

The C-2 Central Commercial District is intended to protect and promote suitable areas for business and commercial uses which benefit from proximity to each other, to encourage the eventual elimination of uses inappropriate to a central business area, and to encourage the intensive development of a central business center for the City.

### Section 17.64.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.64.030. Development Standards.

#### A. *Minimum Lot Area.*

- 43,560 square feet or one (1) acre

#### B. *Minimum Lot Width.*

- 100 feet of street frontage

#### C. *Maximum Height.*

- 40 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 40 feet on arterial or collector street
- 30 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 25 feet adjacent to interior line
- 20 feet adjacent to street

#### F. *Minimum Rear Yard Setback.*

- 50 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### H. *Maximum Lot Coverage.*

- 70 percent

#### I. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### Section 17.64.040. Architectural Standards.

#### A. *Exterior Façade:*

On all roadways where buildings or parts thereof are visible, all exposed exterior wall sidings shall be composed of the following Building Materials.

1. The first floor shall be either brick, natural stone, high-grade stucco; glass; or exposed concrete block, metal, and/or tile.
2. The second floor and above shall be either brick, high-grade stucco; glass; or a combination.
3. The installation of windows are encouraged on all facades to provide natural light into the building's interior spaces and to add visual interest to the facades.
4. Materials not listed may be presented to the Director for classification.

**B. Site Standards**

1. The front setback for the primary structure can be reduced to twenty (20) feet along major arterials that have been expanded to four (4) or more lanes, or where additional Right-of-Way has been purchased but construction has not started.
2. With the reduced front setback to twenty (20) feet, all required parking shall be located between the rear of the primary structure and the landscape/natural buffer at the rear of the property. Only driveways are allowed to cross the front setback.

**C. Landscape Requirements (see Section 17.120.020).**

**D. Parking Lot Requirements (see Section 17.120.026).**

**Section 17.64.050. Buffer Requirement.**

When a C-2 district abuts a residential zoning district, a twenty-five (25) foot wide planted buffer strip is required.

## CHAPTER 17.68. C-3 HIGHWAY COMMERCIAL DISTRICT.

### Section 17.68.010. District Intent.

The C-3 Highway Commercial District is intended to promote suitable areas for those business and commercial uses which primarily serve the traveling public and benefit from direct access to major streets.

### Section 17.68.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.68.030. Development Standards.

#### A. *Minimum Lot Area.*

- 43,560 square feet or one (1) acre

#### B. *Minimum Lot Width.*

- 150 feet of street frontage on a Highway or Major Arterial

#### C. *Maximum Height.*

- 45 feet in for primary structure
- 25 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 40 feet on arterial or collector street
- 30 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 25 feet adjacent to interior line
- 20 feet adjacent to street

#### F. *Minimum Rear Yard Setback.*

- 50 feet

#### I. *Minimum Distance Between Buildings.*

- 20 feet

#### J. *Maximum Lot Coverage.*

- 70 percent

#### K. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### Section 17.68.040. Architectural Standards.

#### A. Exterior Façade:

On all roadways where buildings or parts thereof are visible, all exposed exterior wall sidings shall be composed of the following Building Materials.

1. The first floor shall be either brick, natural stone, high-grade stucco; glass; or exposed concrete block, metal, and/or tile.

2. The second floor and above shall be either brick, high-grade stucco; glass; or a combination.
3. The installation of windows are encouraged on all facades to provide natural light into the building's interior spaces and to add visual interest to the facades.
4. Materials not listed may be presented to the Director for classification.

**B. Site Standards**

1. The front setback for the primary structure can be reduced to twenty (20) feet along major arterials that have been expanded to four (4) or more lanes, or where additional Right-of-Way has been purchased but construction has not started.
2. With the reduced front setback to twenty (20) feet, all required parking shall be located between the rear of the primary structure and the landscape/natural buffer at the rear of the property. Only driveways are allowed to cross the front setback.

**C. Landscape Requirements (see Section 17.120.020).**

**D. Parking Lot Requirements (see Section 17.120.026).**

**Section 17.68.050 Buffer Requirement.**

When a C-3 district abuts a residential zoning district, a twenty-five (25) foot wide planted buffer strip is required.

## **CHAPTER 17.70. “FOR SALE” MU – MIXED-USE DISTRICT.**

### **Section 17.70.010. District Intent.**

The intent of this district is to allow a mixture of residential, commercial, and office uses within close proximity, while providing interconnected urban scale development in nodal and corridor areas that offer pedestrian connectivity and eliminate additional commuter trips for regionally oriented goods and services. The creation of a regional destination with design amenities that accommodate mixed-use buildings with neighborhood retail, personal services, and other uses on the ground floor and residential units above the ground floor. The Mixed-Use District encourages development that exhibits the physical design characteristics of pedestrian oriented, store-front style shopping streets; and promotes the health and wellbeing of residents by encouraging physical activity, alternative transportation, and greater social interaction.

### **Section 17.70.020. Density.**

The District promotes a maximum density of twenty-four (24) dwelling units per acre.

### **Section 17.70.030. Uses.**

See Section 17.90.40. Use Table.

### **Section 17.70.040. Development Standards.**

#### *A. Minimum Lot Area.*

- 130,680 square feet or three (3) acres

#### *B. Minimum Lot Width.*

- 400 feet of street frontage

#### *C. Maximum Height.*

- Four (4) stories or 50 feet for all structures

#### *D. Minimum Front Yard Setback.*

- 10 feet on arterial or collector street
- 10 feet on local streets

#### *E. Minimum Side Yard Setback.*

- 10 feet adjacent to interior line
- 10 feet adjacent to street

#### *F. Minimum Rear Yard Setback.*

- 10 feet

#### *G. Minimum Distance Between Buildings.*

- 20 feet

#### *H. Minimum Heated Floor Area.*

- 600 square feet for an efficiency unit
- 700 square feet for one bedroom unit.

- 900 square feet for two-bedroom unit.
- 1,100 square feet for three or more-bedroom unit.

I. **Minimum Open Space.**

Fifteen (15) percent of the district set aside for amenities or features such as community gathering spaces for outdoor seating/ dining, outdoor games, and entertainment; amphitheaters; City squares; open areas of lawns surrounded by canopy trees; etc. All amenities or gathering spaces must be approved by the Director.

J. **Maximum Lot Coverage.**

- 80 percent

K. **Homeowners Association or Property Owners Association.**

All MU buildings with “For Sale” units are required to have a Homeowners Association or Property Owners Association. These associations will be required to use standard language required by the City of McDonough.

**Other Regulations.**

All other applicable regulations must be satisfied prior to development under this zoning district.

**Section 17.70.050. Architectural Standards.**

The following standards apply to all buildings used for commercial, industrial, or residential purposes.

A. **Exterior Finishes:**

On all roadways where buildings or parts thereof are visible, all exposed exterior wall sidings shall be composed of the following Building Materials.

1. The first floor shall be either brick, natural stone, high-grade stucco; glass; or exposed concrete block, metal, and/or tile.
2. The second floor and above shall be either brick, high-grade stucco; glass; or a combination.
3. Natural wood and/or cementitious fiberboard siding are allowed only for residential buildings;
4. Exposed concrete block, metal, and tile are not allowed as building materials on a facade. Materials not listed may be presented to the Director for classification.

B. **Building Standards.**

1. Height requirements:
  - a. At thirty-five (35) feet or three (3) stories (whichever is first), the street facades of the building shall step back fifteen (15) feet and continue to a maximum height of 60 ft to maintain the pedestrian orientation of the building.
2. The first floor (sidewalk level) of any mixed-use building is required to be commercial or office space.
3. Buildings that are located on outparcels shall be constructed of materials that are complementary to the development.

C. *Additional Standards.*

1. All mechanical, HVAC, and like systems shall be located on the roof and screened from public view by a parapet wall, louver panels, or other opaque materials.
2. Permanent mounted exterior neon lights shall not be allowed.

D. Landscape Requirements (see Section 17.120.020).

E. Parking Lot Requirements (see Section 17.120.026).

**Section 17.70.060 Sign Standards.**

- A. A master sign plan for the development shall be submitted to the Director for approval with the following provisions.
1. No multiple tenant monument sign shall exceed ten (10) feet in height or one hundred (100) square feet in sign area.
  2. No single tenant monument sign shall exceed six (6) feet or thirty-two (32) square feet.
  3. The area of a wall sign shall not exceed ten (10) percent of the primary, first floor façade of the individual tenant's primary space. If the tenant has a corner unit, a secondary wall sign is allowed but the area is half (1/2) the size of the primary wall sign.

**Section 17.70.070. "For Rent" MU – Mixed-Use District.**

The "For Rent" MU – Mixed-Use District shall meet all requirements of the "For Sale" MU – Mixed Use District plus all supplementary requirements found in Section 17.100.290.C. Standards for developing For-Rent Residential Units in MU – Mixed Use District.



## CHAPTER 17.72. M-1 LIGHT INDUSTRIAL DISTRICT.

### Section 17.72.010. District Intent.

The M-1 light industrial district is intended to protect and promote areas for industrial and related uses, which do not create excessive noise, odor, smoke, dust, vibration and other emissions which might be detrimental to surrounding neighborhoods or other uses.

### Section 17.72.020. Uses.

See Section 17.90.40. Use Table.

### Section 17.72.030. Development Standards.

#### A. *Minimum Lot Area.*

- 87,120 square feet or two (2) acres

#### B. *Minimum Lot Width.*

- 200 feet of street frontage

#### C. *Maximum Height.*

- 50 feet in for primary structure
- 40 feet for accessory structure

#### D. *Minimum Front Yard Setback.*

- 50 feet on arterial or collector street
- 50 feet on local streets

#### E. *Minimum Side Yard Setback.*

- 50 feet adjacent to interior line
- 50 feet adjacent to street

#### F. *Minimum Rear Yard Setback.*

- 50 feet

#### G. *Minimum Distance Between Buildings.*

- 20 feet

#### I. *Maximum Lot Coverage.*

- 80 percent

#### J. *Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### Section 17.72.040 Buffer Requirement

When a M-1 district abuts a residential zoning district, a setback of fifty (50) feet shall be required, including a twenty-five (25) feet wide planted buffer strip.

## **CHAPTER 17.76. M-2 HEAVY INDUSTRIAL DISTRICT.**

### **Section 17.76.010. District Intent.**

The M-2 heavy industrial district is intended to provide suitable areas for those uses, which are obnoxious or offensive because of odor, dust, smoke, gas, noise, vibration or other emissions.

### **Section 17.76.020. Uses.**

See Section 17.90.40. Use Table.

### **Section 17.76.030. Development Standards.**

#### *A. Minimum Lot Area.*

- 435,600 square feet or ten (10)

#### *B. Minimum Lot Width.*

- 250 feet of street frontage

#### *C. Maximum Height.*

- 50 feet in for primary structure
- 40 feet for accessory structure

#### *D. Minimum Front Yard Setback.*

- 50 feet on arterial or collector street
- 75 feet on local streets

#### *E. Minimum Side Yard Setback.*

- 100 feet adjacent to interior line
- 100 feet adjacent to street

#### *F. Minimum Rear Yard Setback.*

- 100 feet

#### *G. Minimum Distance Between Buildings.*

- 100 feet

#### *I. Maximum Lot Coverage.*

- 80 percent

#### *J. Other Regulations.*

- All other applicable regulations must be satisfied prior to development under this zoning district.

### **Section 17.76.040. Buffer Requirements.**

When a M-2 district abuts a residential zoning district, a one hundred (100) feet wide planted buffer strip is required.

## CHAPTER 17.78.000. PLANNED UNIT DEVELOPMENTS.

- A. In the case of a planned unit development of two or more buildings to be constructed on a plot of ground at least three (3) acres in area not subdivided into customary lots and streets, and which will not be subdivided, or where the existing or contemplated lot and street layout make it impractical to apply the requirements of this Title to the individual buildings in such planned unit developments, the application of the terms of this Title may be varied in a manner that will be in harmony with the goals of the comprehensive plan and will insure that the intent of this Title is not violated.
- B. Prior to the submittal of an application to the Mayor and City Council for approval of a Planned Unit Plan, the developer shall meet with the PC for a review of the location, scope and nature of the proposed project.
- C. A plan for such Planned Unit Project shall be submitted to the PC for review and recommendation to the Mayor and City Council. After the plan is formally presented to the PC, the PC has thirty (30) days to submit its recommendations to the Mayor and City Council. Each site plan shall be prepared by an architect, landscape architect, engineer or land surveyor, whose state registration is current and valid, or by a professional planner holding certified status from the American Planners Association (APA). His seal or professional initials (AICP) shall be affixed to the plan submitted. Each plan shall be drawn at an appropriate scale and shall show the following:
  - 1. Name. Name(s) of the proposed development. Name(s) and address(es) of the owner(s) and the designer(s) of the site plan and his seal;
  - 2. Date. Date, appropriate North arrow and scale;
  - 3. Boundaries. The boundary line of the tract to be developed drawn accurately to scale and with accurate linear and angular dimensions;
  - 4. Location Map. A map to an appropriate scale showing the location of the development;
  - 5. Contours. Contours with a minimum vertical interval of five feet referred to sea level datum shall be provided for both existing and proposed topography;
  - 6. Existing Property Lines. The location of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drain pipes, and public utility easements, both on the land to be developed and on that portion of the land immediately adjoining which abuts the land to be developed, and any other pertinent characteristics of the land; the names of adjoining subdivisions or the names of record owners of adjoining parcels of unsubdivided land; and the zoning of the property;
  - 7. Proposed Improvements. The names, where appropriate, and locations and dimensions of proposed streets, alleys, sidewalks, easements, specific use areas, parking, recreation areas, and facilities, yards and other open spaces;
  - 8. Utility and Drainage Plans. Utility and drainage plans shall be provided including all information required by City or County Health, Public Works, Water, Sewer and Sanitation Departments to determine that water, sewer, sanitary disposal, and storm drainage improvements will be made and located in accordance with city requirements;
  - 9. Buffer Areas. Location, dimensions and treatment of all required buffers, landscaped or planted areas, including fences;

10. Trees. The general location of all stands of trees in excess of approximately ten inches in diameter at a point three feet above the surface of the ground;
  11. Proposed Protective Covenants. A preliminary outline of proposed protective covenants, including provisions for the organization and financing of homeowners' association where appropriate;
  12. Other Information. Other information required by the planning commission to insure compliance with the provisions of this Title.
- D. Before taking action on the Planned Unit Development application, the Mayor and City Council shall hold a public hearing, the notice of which shall conform to procedures for amendment to the zoning map. Within sixty (60) days from the date of the public hearing, the Mayor and City Council shall render an official decision on the application. If approved, the Planned Unit Development must be carried out in strict compliance with the plan submitted to and approved by the Mayor and City Council.
- E. The Planned Unit Development shall conform to the following restrictions:
1. If construction is not started within twelve (12) months after approval of the plan by the Mayor and City Council, approval for the plan is rescinded; after which all minimum dimensional requirements for the zoning district in which the parcel is located shall again apply.
  2. Uses and buildings are limited to those permitted within the zoning district in which the project is located; however, within any planned unit development the following uses are also permitted:
    - a. Single-family attached dwellings;
    - b. Two-family and multi-family dwellings;
    - c. Retail stores or shops, excluding the making of any products to be sold on or off the premises, provided that such establishments are limited to maximum of three thousand five hundred (3,500) square feet of retail sales area and ten employees, and further provided that the total area, including off-street parking, of all such establishments shall not exceed three percent of the total area of the planned unit development;
    - d. Personal service establishments, such as barbershops and laundromats, provided that such establishments are limited to a maximum of two thousand (2,000) square feet of floor space and six employees, and further provided that the total area, including off-street parking, of all such establishments shall not exceed two percent of the total area of the planned unit development.
  3. The maximum number of dwelling units allowed per developable acre shall vary for each district.
  4. Only fifty (50) percent of the acreage in floodplain may be included for purposes of calculating this density. The residential density shall not exceed fourteen (14) units per gross acre of developable land. For purposes of calculating this residential density and acreage, developable land shall not include any portion of the lot containing rivers, streams or floodplain.
  5. The number of parking spaces provided shall conform to the requirements specified in Chapter 17.20.

6. The existing landscaping features shall be retained, wherever possible. Included among landscaping features are ponds, streams, lakes, trees and similar features. The plan shall designate by appropriate symbol the location of existing trees to be retained. For the purpose of this provision, a tree with a diameter of at least ten inches, at a point three feet above the surface of the ground, shall be considered worth retaining.
7. The developer shall set aside not less than twenty (20) percent of the development for open space, parks, or recreation use. Required streets, drives, yard areas, and common parking court areas shall not be credited toward this minimum required open space allocation. Only fifty (50) percent of such area may be developed with recreational facilities and not more than fifty (50) percent of the land reserved for open space purposes shall be within a floodplain.

## **CHAPTER 17.80. OVERLAY DISTRICTS.**

### **SECTION 17.80.010. CONSERVATION SUBDIVISION**

#### **17.80.011. Purpose.**

- A. Provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
- B. Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- C. Preserve important historic and archaeological sites.
- D. Allow for design innovation to provide flexibility for land development where the normal development approach would otherwise be unnecessarily restrictive or contrary to goals within the Comprehensive Plan.
- E. Permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- E. Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- F. Promote interconnected greenways and corridors throughout the community.
- G. Promote contiguous green space with adjacent jurisdictions.
- H. Achieve a higher quality of residential development than could otherwise be achieved under conventional zoning.
- I. Encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood.
- J. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical, efficient, and environmentally friendly manner.
- K. Promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.
- L. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.

#### **17.80.012. General Regulations.**

- A. *Review Authority:* The Planning Commission recommends, and the Mayor and City Council shall have authority to approve or deny applications for a Conservation Subdivision.
- B. *Eligible properties:*
  - 1. A parcel of land, which shall be the parent lot for the purposes of this Section, is eligible to be a Conservation Subdivision if all the following requirements are met.
    - a. The parent lot is zoned RA, R-200, R-100, R-85, R-75, or R-60.
    - b. The parent lot has an area of at least three (3) acres of contiguous land, not

divided by a road.

- c. The parent lot is under single ownership control such that a single person or entity has proprietary responsibility for completing and maintaining the development.
  2. A Conservation Subdivision shall maintain a minimum of forty percent (40%) of the gross area of the site as dedicated open space held in common ownership.
  3. Open space preservation developments achieving at least fifty percent (50%) dedicated open space and meeting the provisions of this Section shall be treated as a permitted land use.
- C. *Permitted Uses.* The following uses are permitted within a Conservation Subdivision:
1. All residential uses and types permitted in a RA, R-200, R-100, R-85, R-75, and R-60 zoning districts, are permitted under this Section.
- D. *Regulatory flexibility:* The Mayor and City Council, upon recommendation by Planning Commission, may reduce the lot coverage; impervious surface percentage; floor area ratio; front, side, rear, perimeter setback; and minimum lot width requirements provided that the applicant has demonstrated innovative and creative site and building designs and solutions; and environmentally friendly practices which would otherwise be unfeasible or unlikely to be achieved absent this provision.
- E. *Ownership of Development Site.* The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
- F. *Housing Density Determination.* The maximum number of lots in the Conservation Subdivision shall be determined by either of the following two methods, at the discretion of the applicant:
1. Calculation: The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:
    - a. Slopes over 25% of at least 5,000 square feet contiguous area;
    - b. The 100-year floodplain;
    - c. Bodies of open water over 5,000 square feet contiguous area; and
    - d. Wetlands that meet the definition of the Army Corp of Engineers pursuant to the Clean Water Act.
  2. Yield Plan: The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended [to] yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.
  3. To encourage the use of the Conservation Subdivision, if all standards set forth in this Section are met, the underlying density established by this Code may be increased by up to twenty percent (20%) at the discretion of the Mayor and City Council, upon recommendation by the Planning Commission. Density bonuses shall

be based upon a demonstration by the applicant of at least two (2) of the following:

- a. Preservation of Significant Natural Features. Preservation of significant natural features contained on the site, as long as it is in the best interest of the City to preserve the natural features that might be negatively impacted by conventional residential development. The determination of whether the site has significant natural features shall be made by the Director; or
- b. Provision of Recreation Facilities. If the site lacks significant natural features, it can qualify with the provision of usable recreation facilities to which residents and non-residents of the development shall have reasonable access. Such recreation facilities include areas such as a non- motorized mobility improvement, neighborhood parks, passive recreational facilities, soccer fields, ball fields, bike paths, community gardens, or similar facilities that provide a feature of community-wide significance and enhance residential development; or
- c. Affordable Housing. The site can qualify if a minimum of fifteen (15) percent of the housing is restricted to households having an income that does not exceed 120 percent of the area median income for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Roswell, Georgia, Metropolitan Statistical Area, as published by the U.S. Department of Housing and Urban Development as of the date of the household's application, and whose housing and utility costs do not exceed 30 percent of the household's annual gross income; or
- d. Art and/or Cultural Feature. The site can qualify if art features are created and/or a historic or cultural feature is preserved; or
- e. Provision of Senior and Affordable Housing. To provide housing opportunities for senior citizens and working poor in situations where such opportunities might not otherwise be provided; or
- f. Inclusion of Environmental Features. To advance the goals of the City regarding environmental sustainability and stewardship. Environmental features may include:
  - 1) Sustainable building construction including but not limited to LEED certification or practices, "solar ready" construction standards, "EV Ready" parking locations (this could be for each unit or at the community level); or
  - 2) Development level or "Community" green features including but not limited to community compost facilities, community solar and/or geothermal energy harvesting capabilities (including these features in the open greenspace), green infrastructure, parking lot green infrastructure, rainwater management for irrigation of greenspaces, and "smart lighting" of sidewalks/community spaces.

#### **17.80.013. Application Requirements.**

- A. Site Analysis Map Required. Concurrent with the submission of a site concept plan, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the



requirements of this article. The preliminary site plan shall include the following features:

1. Property boundaries;
  2. All streams, rivers, lakes, wetlands and other hydrologic features;
  3. Topographic contours of no less ten (10) foot intervals;
  4. All Primary and Secondary Conservation Areas labeled by type, as described in Section 17.080.014 of this Article;
  5. General vegetation characteristics;
  6. General soil types;
  7. The planned location of protected Open Space;
  8. Existing roads and structures;
  9. Potential connections with existing green space and trails.
- B. *Open Space Management Plan Required.* An open space management plan, as required under this Chapter, shall be prepared and submitted prior to the issuance of a land disturbance permit.
- C. *Instrument of Permanent Protection Required.* An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.
- D. *Other Requirements.* The Applicant shall adhere to all other applicable requirements of the underlying zoning and the subdivision code.

#### **17.80.014. Open Space.**

- A. *Definition.* Open Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.
- B. *Standards Determine Open Space.*
1. The minimum restricted Open Space shall comprise at least 40% of the gross tract area.
  2. The following are considered Primary Conservation areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
    - a. The 100-year floodplain.
    - b. Riparian zones of at least 75 ft. width along all perennial and intermittent streams.
    - c. Slopes above 25% of at least 5,000 square feet contiguous area.
    - d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act.
    - e. Populations of endangered or threatened species, or habitat for such species.

- f. Archaeological sites, cemeteries and burial grounds.
  3. The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible:
    - a. Important historic sites.
    - b. Existing healthy, native forests of at least one-acre contiguous area.
    - c. Individual existing healthy trees greater than eight (8) inches caliper, as measured from outmost drip line.
    - d. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads.
    - e. Prime agricultural lands of at least five acres contiguous area.
    - f. Existing trails that connect the tract to neighboring areas.
  4. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Open Space but cannot be counted towards the 40% minimum area requirement. (exception: historic structures and existing hails may be counted). Large areas of impervious surface shall be excluded from the Open Space.
  5. At least 25% of the Open Space shall consist of land that is suitable for building.
  6. At least 75% of the Open Space shall be in a contiguous tract. The Open Space shall adjoin any neighboring areas of Open Space, other protected areas, and natural non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
  7. The Open Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots should be provided with safe, convenient access to the Open Space.
- C. *Permitted Uses of Open Space.*
  1. Uses of Open Space may include the following:
    - a. Conservation of natural, archeological or historical resources;
    - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
    - c. Walling or bicycle trails, provided they are constructed of porous paving materials;
    - d. Passive recreation areas, such as open fields;
    - e. Active recreation areas, provided that they are limited to no more than 10% of the total Open Space and are not located within Primary Conservation Areas, Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space;

- f. Agriculture, horticulture, silviculture or pasture uses, provided that all the best applicable management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
- g. Landscaped stormwater management facilities, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses, Such facilities shall be located outside of Primary Conservation Areas;
- h. Easements for drainage, access, and underground utility lines; and
- i. Other conservation-oriented uses compatible with the purposes of this Chapter.

D. *Prohibited Uses of Open Space.*

- 1. Golf courses;
- 2. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
- 3. Agricultural and forestry activities not conducted according to accepted Best Management Practices;
- 4. Impoundments; and
- 5. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.

E. *Ownership and Management of Open Space.*

- 1. Ownership of Open Space. A homeowners association representing residents of the conservation subdivision shall own the Open Space.
- 2. Membership in the Homeowners' Association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the Homeowners' Association.
- 3. Management Plan. Applicant shall submit a Plan for Management of Open Space and Common Facilities ("Plan") that:
  - a. Allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
  - b. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
  - c. Provides that any changes to the Plan be approved by the City Council; and
  - d. Provides for enforcement of the Plan.
- 4. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such

maintenance may be charged to the Homeowners' Association or to the individual property owners that make up the Homeowners' Association and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

F. Legal Instrument for Permanent Protection.

1. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - a. A permanent conservation easement in favor of either:
    - 1) A land trust or similar conservation-oriented nonprofit organization with legal authority to accept such easements;
    - 2) The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
    - 3) A governmental entity with an interest in pursuing goals compatible with the purposes of this Chapter.
    - 4) If the entity accepting the easement is not the City, then a third right of enforcement favoring the City shall be included in the easement.
  - b. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
  - c. An equivalent legal tool that provides permanent protection, if approved by the City.
2. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

- G. Tax Assessment of Open Space. Once a legal instrument for permanent protection has been placed upon the Open Space, the Henry County tax assessment office shall be directed to reassess the Open Space at a lower value to reflect its more limited use. If the Open Space is used purely for passive recreational purposes and the terms of the instrument for permanent protection effectively prohibit any type of significant economic activity, then the assessment shall be at a value of zero.

## **CHAPTER 17.84. DIMENSIONAL REQUIREMENTS BY ZONING DISTRICT**

**Table 17.84.010 Dimensional Requirements**

District	Minimum Lot Size in Square Feet or Acres	Minimum Lot Width (Feet)	Minimum Heated Floor Area in Square Feet/Unit	Maximum Height (Feet)	Minimum Front Yard Major Streets (Feet)	Minimum Front Yard All Other Streets (Feet)	Minimum Side Yard (Street/ Interior Line)	Minimum Rear Yard	Minimum Distance to bldgs. on same lot	Maximum Lot Coverage in Percentage	Additional Standards
RA	87,120	200	2,500	35	75	50	30/20	40	20	20	17.24
R-200	43,560	200	2,500	35	60	50	30/20	40	20	20	17.26
R-100	21,780	100	2,000	35	50	40	30/20	40	20	30	17.28
R-85	16,000	85	1,800	35	50	40	30/10	40	20	40	17.32
R-75	12,000	75	1,600	35	50	35	30/10	30	20	50	17.36
R-60	8,000	60	1,600	35	30	30	30/10	20	20	50	17.38
RM-75	217,800	250	17.40.030	35	50	50	50	50	20	50	17.40
RTD	87,120	100	17.44.030	35	30	30	50	30/50	20	50	17.44
MU	130,680 (3 acres)	400	17.70.040	50	10	10	10	10	20	80	17.70
O-I	43,560 (1 acre)	100	N/M	35	50	50	30	50	20	70	17.56
C-1	43,560 (1 acre)	75	N/M	35	40	30	20/10	30	20	70	17.60
C-2	43,560 (1 acre)	150	N/M	40	40	30	20/25	30	20	70	17.64
C-3	43,560 (1 acre)	150	N/M	45	40	30	20/25	30	20	70	17.68
M-1	87,120 (2 acres)	200	N/M	50	50	50	50	50	20	80	17.72
M-2	435,600 (10 acres)	250	N/M	50	50	75	100	100	100	80	17.76
PUD	130,680 (3 acres)	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	17.78

## **CHAPTER 17.88. EXCEPTIONS AND MODIFICATIONS**

### **Section 17.88.010. Lot of Record.**

Where the owner of a plot of land consisting of one or more adjacent lots of record at the time of the enactment of the ordinance codified in this Title did not at that time own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this Title, such plot of land may nevertheless be used as a building site. The yard and other space requirements of the district in which the plot of land is located may be reduced by the smallest amount that will permit a principal building of minimum acceptable size to be built upon the lot.

### **Section 17.88.020. Visibility at Intersections.**

In any district no fence, structure, planting or other obstruction between a height of two and one-half feet and ten feet shall be maintained within 20 feet of the intersection of the right-of-way lines of two streets or railroads or of a street intersection with a railroad right-of-way.

### **Section 17.88.030. Temporary Buildings.**

Temporary buildings used only in conjunction with construction work may be permitted in any district but shall be removed promptly upon completion of construction.

### **Section 17.88.040. Front Yard Setbacks.**

The front yard setback requirements of this Title for buildings shall not apply to any lot where the average setback of existing buildings, located wholly or partially within 200 feet on either side of the proposed structure in the same block and use district and fronting on the same street as such lot, is less than the minimum front yard depth. In such case, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots. When such average setback is greater than required by the district, such average setback will be observed but need not be greater than 150 percent of the required setback of the district.

### **Section 17.88.050. Corner Lots.**

In any residential or office institutional district, the side yard requirements for corner lots along the side street shall be the equal to the front yard setback requirements. Accessory buildings shall observe all setback requirements.

### **Section 17.88.060. Height Limitations.**

The height limitations of this Title shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments; water towers; observations towers; transmission towers; chimneys; smokestacks; conveyors; flagpoles; radio towers; television towers; masts; aerials; and similar structures.

### **Section 17.88.070. Density Incentive.**

*Housing Density Determination.* The maximum number of lots in a Subdivision shall be determined by either of the following two methods, at the discretion of the applicant:

- A. Calculation: The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:
  1. Slopes over 25% of at least 5,000 square feet contiguous area;
  2. The 100-year floodplain;

3. Bodies of open water over 5,000 square feet contiguous area; and
  4. Wetlands that meet the definition of the Army Corp of Engineers pursuant to the Clean Water Act.
- B. Yield Plan: The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended [to] yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.
- C. If all standards set forth in this Section are met, the underlying density established by this Code may be increased by up to twenty percent (20%) at the discretion of the Mayor and City Council, upon recommendation of the Planning Commission. Density Incentives shall be based upon a demonstration by the applicant of at least two (2) of the following:
1. Affordable Housing. The site can qualify if a minimum of fifteen (15) percent of the housing is restricted to households having an income that does not exceed 120 percent of the area median income for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia, Metropolitan Statistical Area, as published by the U.S. Department of Housing and Urban Development as of the date of the household's application, and whose housing and utility costs do not exceed 30 percent of the household's annual gross income; or
  2. Art and/or Cultural Feature. The site can qualify if art features are created and/or a historic or cultural feature is preserved; or
  3. Provision of Senior and Affordable Housing. To provide housing opportunities for senior citizens and working poor in situations where such opportunities might not otherwise be provided; or
  4. Inclusion of Environmental Features. To advance the goals of the City regarding environmental sustainability and stewardship. Environmental features may include:
    - a. Sustainable building construction including but not limited to LEED certification or practices, "solar ready" construction standards, "EV Ready" parking locations (this could be for each unit or at the community level); or
    - b. Development level or "Community" green features including but not limited to community compost facilities, community solar and/or geothermal energy harvesting capabilities (including these features in the open greenspace), green infrastructure, parking lot green infrastructure, rainwater management for irrigation of greenspaces, and "smart lighting" of sidewalks/community spaces.

#### **Section 17.88.080. Double Buffer.**

When a required buffer area would abut and be contiguous to an established buffer area, which meets all requirements of this Title, then such additional required buffer area need not be established.

#### **Section 17.88.090 Exceptions to terms.**



For purposes of this Title, no lot or parcel of land in one use district shall be deemed to abut, face or be adjacent to a lot or parcel in another use district when a public street separates the two parcels.

## CHAPTER 17.90 - USE CLASSIFICATION.

### Section 17.90.010. Classification of uses.

No building shall be erected, converted, enlarged, reconstructed, moved, structurally altered or used, except for a use permitted in the district in which the building is located.

### Section 17.90.020. Principal uses not listed.

A principal use not specifically listed is not allowed unless the Director determines the use to be part of a use category as described below.

- A. The Planning Division is responsible for categorizing all principal uses. If a proposed use is not listed in a use category, but is similar to a listed use, the Planning Department may consider the proposed use part of that use category. When determining whether a proposed use is similar to a listed use, the Planning Division must consider the following criteria:
1. The actual or projected characteristics of the proposed use.
  2. The relative amount of site area or floor area and equipment devoted to the proposed use.
  3. Relative amounts of sales.
  4. The customer base.
  5. The relative number of employees.
  6. Hours of operation.
  7. Building and site arrangement.
  8. Types of vehicles used and their parking requirements.
  9. The number of vehicle trips generated.
  10. How the proposed use is advertised.
  11. The likely impact on surrounding properties; and
  12. Whether the activity is likely to be found independent of the other activities on the site.
- B. If the Planning Division finds that proposed use meets the criteria listed above for a similar use, the Director shall make the final decision for approval.

### Section 17.90.030. Use classification key.

A. *Permitted Use (P)*

Indicates a use is permitted in the respective district. The use is also subject to all other applicable requirements of the Code.

B. *Special-Permitted Use (S)*

Indicates a use may be permitted in the respective district only after a public hearing by the Planning Commission and approval by the Mayor and City Council. Special uses are subject to all other applicable requirements of this Code.

C. *Accessory Uses (A)*

Indicates that a use that is subordinate in both purpose and size, incidental to and customarily associated with a permitted or special principal use located on the same lot.

D. *Non-Permitted Uses (-)*

Indicates a use which is not permitted in the respective district.

**Section 17.90.040. Use Table.**

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
AGRICULTURAL																	
Agricultural produce stands	P	S							S	P	P	P	P				
Commercial greenhouses and plant nurseries	P									P	P	P					
Keeping or raising of livestock	P																
Riding academies or stables	P																
RESIDENTIAL																	
Accessory dwelling unit (guesthouse, in-law suite)	A	A	A	A													17.100.050
Accessory Use/Structure Standards (Not Dwelling Unit)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	17.100.040
Age restricted (senior) housing		P	P	P	P	S		P					P				17.100.080
Cluster Home Development																P	17.100.270
Conservation Subdivision		S	S	S	S	S											17.100.340
Duplex								P									17.100.080
Home occupation	A	A	A	A	A	A	A	A					A				17.100.070
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Multi-Family Apartments								P					P				
Single-family residences		P	P	P	P	P							P			P	17.100.340
Tiny House Cluster																P	17.100.280
Townhouse							P						P				
Triplex, quadraplex								P									
<b>LODGING</b>																	
Bed and breakfast										S	S						
Extended stay hotel												P					17.100.150
Hotel											P	P	P				17.100.150
<b>SPECIALIZED HOUSING FACILITIES</b>																	
Boarding/rooming house having 4 persons or less									S	S	S	S					17.100.100
Day Care Facilities & Centers (Family, Group)																	17.100.090
Halfway house											P	P					17.100.110
Residential facility for the developmentally disabled											P	P					17.100.110
Personal Care Homes having 4 or less	S	S	S	S	S												17.100.100
Group Homes having 4 or less	S	S	S	S	S												17.100.100
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Nursing homes, assisted living, and hospice care facilities	S	S	S	S	P	P		P	P		P	P	P				17.100.81.(L)
<b>INSTITUTIONAL/PUBLIC</b>																	
Cemeteries		S							P	P	P	P					17.100.190
Funeral homes, mortuaries, and crematoriums										P	P	P					
Emergency response, police, fire, & public safety facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Golf courses and driving ranges	P	P	P	P	P	P					P	P	S				
Municipal, County, State, or Federal buildings	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Library or museum	P	P	P	P	P	P		P	P	P	P	P	P				
Parks, playgrounds, community gathering spaces	P	P	P	P	P	P	P	P	P	P	P	P	P				
Athletic fields	P	P	P	P	P	P	P	P	P	P	P	P	P				17.120.070.(H)
Event center											P	P					
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Indoor amusements (miniature golf, climbing walls, trampolines, roller skating, and other similar uses)											P	P	P				
Outdoor amusements (miniature golf, carnivals or rides, zip lines, climbing walls, go-carts and similar vehicles, and other tourist-oriented uses)												P					
Places of worship		S	S	S					P	P	P	P	P				17.100.180
Social/Private clubs facilities									P		P	P					17.100.170
<b>EDUCATION</b>																	
Colleges, universities, research and training facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Public kindergarten, elementary, middle and high schools	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Public kindergarten, elementary, middle and high schools	P	P	P	P	P	P	P	P	P	P	P	P					
Private kindergarten, elementary, middle and high schools	S	S	S	S	S	S	S	S	P	P	P	P					
Learning Center									P	P	P	P	P				
Vocational schools									P	P	P	P					
<b>AUTO RELATED</b>																	
Automobile brokerage (no vehicle storage)									P	P	P	P					17.100.120
Automobile service, major repair												P		P			17.100.120
Automobile service, minor repair											P	P		P			17.100.120
Automobile Collision Center												P		P			17.100.120
Automobile Wash											S	P		P			17.100.120
New/Used Automobile and Light Duty Pickup sales and service											P	P		P			17.100.120
Medium & Heavy Duty Truck Sales & Service											P	P		P			17.100.120
Tractor Trailer Sales and Service											P	P		P			17.100.120
Vehicle Rentals											P	P		P			17.100.120
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	



USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Gasoline service centers												P		P			17.100.130
Recreational vehicle/boat sales and service												P		P			17.100.120
Tire shops											P	P		P			17.100.120
<b>RECREATION &amp; ENTERTAINMENT</b>																	
Adult entertainment														P			5.08
Indoor recreation (bowling alleys, movie theatres and other activities conducted only indoors)											P	P	P				
Movie Studio												P		P	P		
Movie Theaters											P	P	P				17.100.170
Lounges and Nightclubs											S	S	S				17.100.350
Private commercial/vocational schools (including martial arts or dance studios, and technical or vocational training)									P		P	P	P				17.100.170
Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building									P	P	P	P	S				17.100.170
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
RETAIL																	
Apparel or accessories store										P	P	P	P				
Art gallery									P	P	P	P	P				
Antique shops										P	P	P	P				
Barber, hair salon, and day spa										P	P	P	P				
Farmer's market										P	P	P	P				
Florist and gift shops										P	P	P	P				
General business office, including accounting, finance, insurance, legal, medical, real estate, engineering, architecture, construction									P	P	P	P	P				
Grocery stores										P	P	P	P				17.100.330
Hardware store										P	P	P					
Jewelry store										P	P	P	P				
Music store										P	P	P	P				
Office supplies and equipment store										P	P	P					
Package store																	17.100.330
Pawn shops												P					17.100.160
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Pet supply store (no boarding)										P	P	P	P				
Pharmacy or drug store									P	P	P	P	P				17.100.140 & 330
Small box stores										P	P	P					17.100.200 & 330
Smoke, vape, tobacco stores										P	P	P					17.100.320
Sporting goods store										P	P	P					
Tattoo, Piercing, and Body Art Studios											P	P					17.100.360
<b>RESTAURANT &amp; FOOD ESTABLISHMENTS</b>																	
Brewpub beer growler, brewery											P	P	P	P	P		17.100.330
Bakery, confectionary, and cafe uses										P	P	P	P				
Catering establishments										P	P	P		P			17.100.330
Restaurants (non-drive-thru)										P	P	P	P				
Restaurants with a drive-thru configuration												P		P			17.100.140 & 330
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Specialty food stores (e.g., coffee, ice cream)										P	P	P	P				17.100.140
<b>TRANSPORTATION</b>																	
Dispatch for Ambulance, taxi or limousine services											P	P		P			
Bus or rail stations or terminals for passengers														P	P		
Transit park-and-ride lots												P					
Parking Only, Commercial lot or garage									P	P	P	P	P				
<b>SERVICES</b>																	
Adult and child day care									S	P	P	P					
Animal care facilities (kennels, animal hospitals, veterinary clinics, and stables)									P	P	P	P		P			
Banks, credit unions or other similar financial institutions with or without drive thru or ATM									P	P	P	P	P				17.100.140
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Barber shop/beauty salon or similar establishments										P	P	P	P				
Coin laundry, dry cleaning, and pickup stations with or without drive-thru										P	P	P	P				17.100.140
Day spa										P	P	P	P				
Nail shops										P	P	P	P				
Fitness center										P	P	P	P				
Photographic, digital media, recording studios											P	P					
<b>HEALTH &amp; MEDICAL SERVICES</b>																	
Dental, eye offices and clinics									P	P	P	P	P				
Health services clinic, urgent care									P	P	P	P	P				
Home healthcare service, office use only									P	P	P	P	P				
Hospital or medical facility									P	P	P	P					
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Kidney dialysis center									P	P	P	P					
Medical or dental laboratories												P		P			
Physical therapy									P	P	P	P	P				
<b>INDUSTRIAL</b>																	
Agriculture crop processing and storage														P	P		
Alternative energy production														P	P		
Asphalt and concrete plants															P		
Building materials and lumber supply establishments														P	P		
Business distribution centers														P	P		
Business parks									P			P		P			
Brick, tile, and terra-cotta manufacturing															P		
Computer and data processing services									P			p		P			
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Centers for manufacturing, production, processing or assembly														P	P		
Chemical storage or manufacturing															P		
Fabrication shops														P	P		
Food production														P	P		
Greenhouses and nurseries, including landscaping services												P		P	P		
Junk yard															P		
Outdoor storage														P	P		
Railroad spurs and yards															P		
Recycling centers for collection or processing														P	P		
Research, experimental, or testing laboratories									P					P	P		
Rock, sand or gravel distribution or storage															P		
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	

USE	ZONING DISTRICT																Supplemental Standards
	RA	R-200	R-100	R-85	R-75	R-60	RTD	RM-75	OI	C-1	C-2	C-3	MU	M-1	M-2	PUD	
Self-storage and mini-warehousing														P	P		17.100.210
Multiple story self-storage												S		P	P		17.100.210
Tractor trailer storage and trailer drop lots															P		
Truck trailer, tractor sales and service												P			P		
Trade shops, including electrical, plumbing, heating/cooling, and roofing											P	P		P	P		
Towing, wrecking, and impound service															P		
Warehouse, distributions, and indoor storage														P	P		
<b>COMMUNICATIONS &amp; UTILITIES</b>																	
Radio/television transmission towers												P		P	P		
Wireless telecommunications	S	S										S		S	S		
Utility substation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Water tower	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Permitted Use - P, Special Use Permit - S, Accessory Use - A																	



## **Section 17.90.050 Non-Conforming Use Standards**

### **17.90.051. Introduction.**

- A. Within the districts established by this article or amendments that may have previously been adopted or may later be adopted, there exists lots, structures, uses of land and structures, and characteristics of use which were lawful before the ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of the present or future amendments.
- B. For purposes of this article, the term "non-conforming use" shall mean a lawful lot, structure, use of land, or land and structure that existed at the time of the adoption of the zoning ordinance of the City of McDonough, or at the time of the adoption of an amendment to the zoning ordinance, that no longer conforms to those regulations and restrictions contained in the zoning ordinance because of the adoption of the zoning ordinance or the adoption of an amendment to the zoning ordinance.
- C. It is the intent of this Section to require removal or cessation of certain of these non-conformities, and to permit others to continue until they are otherwise removed or ceased.
- D. Non-conforming use of land, structures, or land and structures in combination shall not be extended or enlarged after passage of this article.
- E. To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction, or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this article, and upon which actual building construction has been carried on diligently.

### **17.90.052. Non-Conforming Lot of Record.**

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption.
- B. Such a lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even if the lots fail to meet the requirements applicable in the district regulations.

### **17.90.053. Non-Conforming Structures.**

Where a lawful structure exists at the effective date of adoption that could not be built under the terms of this chapter by reasons of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it is and remains otherwise lawful subject to the following provisions:

- A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity; but any structure or portion thereof may be enlarged or altered if the degree of its non-conformity remains the same or is decreased, provided such structure is used for a permitted use.
- B. *One and two-family residential structures.* Should such a non-conforming one or two-

family residential structure be destroyed, by any means, in whole or in part, it may be reconstructed in the same location and upon its previous foundation and to its previously existing height, provided said reconstruction does not increase the previously existing degree of non-conformity and further provided that said reconstructed structure is used for a permitted use.

- C. *All other structures.* Should such non-conforming multi-family residential, commercial, or industrial structure be destroyed by any means to an extent of more than sixty (60) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this article.
- D. *Accessory structures.* When a non-conforming, accessory structure is destroyed by any means, in whole or in part, it may be reconstructed in the same location and upon its previous foundation and to its previously existing height, provided said reconstruction does not increase the previously existing degree of non-conformity and further provided that said reconstructed structure is used for a permitted use.
- E. *Moving.* Where a non-conforming structure is moved off its previous lot, it shall thereafter conform to the regulations for the district in which it shall be located after it is moved.
- F. *Public purposes.* In cases where land is taken for public purposes from a legal lot of record and it reduces yards previously required in relation to a structure to meet setback requirements generally applicable within the district, the portion of the structure involved shall be construed to be non-conforming.

#### **17.90.054. Non-Conforming Uses.**

- A. Any building, structure or use existing at the time of the enactment or subsequent amendment of this Title 17, but not in conformity with its regulations and provisions, may be continued except that the use of a principal non-conforming building, structure or land shall not be:
  - 1. Changed to another non-conforming use;
  - 2. Re-established after discontinuance for one (1) year;
  - 3. Enlarged, altered and extended, except in conformity with this Title 17;
  - 4. Rebuilt, altered or repaired after damage exceeding sixty (60) percent of its replacement cost, as determined by the Director, except in conformity with this Title and provided such rehabilitation, alteration or repair is completed within twelve (12) months of such damage.
- B. If a residential structure stands in an OI-Office/Institutional District and is converted into an office space, all required parking shall be located in the rear yard with a five (5) buffer strip along all adjacent property lines.
- C. Nothing in Title 17 shall require any change in the plan, construction or intended use of a building which is under construction at the effective date of this regulation and upon which actual building construction has been carried out diligently.

#### **Section 17.90.060. Special Use Permit Standards.**

##### **17.90.061. Special Use Permit Process.**

The following procedure applies to special use petitions:

- A. *Application.* The petitioner shall submit a Special Use Permit application, affidavit and consent of property owner (if the owner is someone other than the petitioner), the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:
1. A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the special use request.
  2. A letter of intent to the planning commission describing the details of the special use request, including, but not limited to:
    - a. The ways in which a Special Use Permit shall comply with the applicable development standards of this Code,
    - b. The ways in which the SUP shall be consistent with the required findings of fact described in section 17.92.016.
- B. *Notification.* Notification for the scheduled public hearing regarding the SUP request shall be consistent with section 17.92.015 Notice of Public Hearing.
- C. *Public Hearing.* The Planning Commission shall at a public hearing scheduled consistently with the adopted calendar of filings and meeting dates, review the SUP application and required supportive information.
1. Either the petitioner or their representative must be present at the public hearing to present the petition and address the required findings of fact.
  2. The PC shall consider a report from the Director, testimony from the petitioner, and testimony from the public and interested parties at the hearing.
  3. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the PC.
  4. The PC shall either forward the application to the Mayor and City Council with a favorable recommendation, an unfavorable recommendation, or no recommendation with an explanation, or defer the decision to the next meeting.
    - a. The petition shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed below in this section.
    - b. The petition shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed below in this section.
    - c. The petition may be forwarded with no recommendation with an explanation, if by a majority vote of the PC, it is determined that the application includes aspects that the PC is not able to evaluate.
- D. *Mayor and City Council* shall hold a public hearing and vote on the proposed SUP permit.

#### **17.90.062. General Review Criteria.**

- A. In adopting an ordinance for an SUP permit, the PC may recommend, and the Mayor and City Council may impose special conditions which are deemed necessary to make the requested zoning acceptable and consistent with the goals and objectives of the City's Comprehensive Plan or when deemed necessary to protect the public health, welfare and safety. The special conditions may include but are not limited to the

following:

1. The permit, if granted, will not cause any diminution or depreciation of property values of any surrounding property or will not alter the essential character of the locality.
2. The permit, if granted, will tend to preserve and advance the prosperity and general welfare of the neighborhood and community.
3. The granting of the SUP will not be detrimental to the public welfare or seriously affect or be injurious to other property or improvements in the neighborhood in which the property is located, in that it will not impair an adequate supply of light and air, or increase substantially the congestion in the public streets, create a traffic hazard, or permit inadequate parking, or increase the danger of fire, or substantially affect or overburden existing drainage or sewerage systems, or endanger the public safety, nor cause serious annoyance or injury to occupants of adjoining premises by reason of emission of odors, fumes, gases, dust, smoke, noise or vibration, light, or glare or other nuisances.
4. The proposed use shall comply with all applicable regulations of this Code.
5. The establishment, maintenance, or operation of the proposed use shall not have adverse impacts on the health, safety, comfort, or general welfare of individuals living or working in the area and shall not be injurious to property or improvements in the area. In making such a determination, consideration shall be given to:
  - a. The location, type, and height of buildings, structures, or facilities.
  - b. The type and extent of landscaping, screening, and buffering on the site.
6. Adequate public facilities shall be provided as set forth in this Code.
7. Adequate measures shall be taken to provide ingress, egress, and interior circulation so designed as to minimize traffic hazards and congestion on the public streets and facilitate safe and convenient multi-modal transportation for vehicles, pedestrians, and cyclists, as appropriate.
8. The proposed use shall not impede the orderly development and improvement of surrounding property or the area.

#### **17.90.063. Conditions of Approval**

In approving any Special Use Permit, the Council may:

- A. Impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in this Code, or within federal or state regulations and standards if federal or state provisions allow additional or stricter application, as the Mayor and City Council may deem necessary to protect the public interest and welfare. Such additional standards may include, but are not limited to:
  1. Availability and financing of adequate public facilities.
  2. Dedication or reservation of land.
  3. Creation of special assessment districts.
  4. Creation of restrictive covenants, easements, or servitudes.

5. Special setbacks, yard, or area requirements.
  6. Increased screening, landscaping, or buffering requirements.
  7. Development phasing.
  8. Standards pertaining to traffic, circulation, lighting, hours of operation, vibration, noise, odor, dust, smoke, gas, or other performance-related impact, or protection of environmentally sensitive areas and similar characteristics.
  9. Provision of sustainable features.
- B. Require that a performance bond be posted, and a development agreement be entered into by the applicant to ensure continued compliance with all conditions and requirements as may be specified, in this Code.

#### **17.90.064. Withdrawal of Petition.**

A request for amendment may be withdrawn at any time prior to a decision by the Mayor and City Council, provided the withdrawal is in writing and signed by the person(s) who initiated the amendment.

#### **17.90.065. Reapplication.**

If the decision of the Mayor and City Council is to deny the SUP, then the same property may not again be considered for a special use until the expiration of at least six (6) months immediately following such denial. If the applicant wants to reapply sooner than six (6) months, a new application that is considered significantly different from the original by the Director shall be allowed to apply.

#### **17.90.066. Termination of Special Use Permit**

An SUP permit may cease to be authorized and terminated with proper public notification, public hearing, and approval by the Mayor and City if construction has not commenced within twelve (12) months of the date the SUP permit is granted.

#### **17.90.067. Text and Zoning Amendments.**

- A. In accordance with O.C.G.A. § 36-66-1 et seq., the Zoning Procedures Law of the State of Georgia, the Mayor and City Council may amend or partially repeal the text of this chapter, or they may amend the official zoning map of this chapter as follows:
1. The Director or Mayor and City Council may initiate a proposal to amend or partially repeal the text according to the procedure of the Zoning Procedures Law of the State of Georgia and according to the Mayor and City Council rules and procedures.
  2. The Director or Mayor and City Council may initiate an application to change the official zoning map according to the procedure of the State of Georgia and according to the Mayor and City Council rules and procedures.
- B. In its review of the text and zoning amendments, the Planning Commission and the Mayor and City Council shall pay reasonable regard to:
1. The most recently adopted comprehensive plan;
  2. Current conditions and the character of structure and uses in each district;
  3. The most desirable use for which the land in each district is adapted;

4. The conservation of property values throughout the jurisdiction;
5. Responsible development and growth; and
6. The health, safety, and welfare of the community.

## **CHAPTER 17.92.00 – ADMINISTRATION AND ENFORCEMENT**

### **Section 17.92.010 Planning Commission (PC)**

#### **17.92.011. Establishment of the Planning Commission.**

The City of McDonough hereby establishes the Planning Commission which shall conduct business consistent with all requirements of the State of Georgia and this chapter.

- A. *Membership.* The Planning Commission shall consist of and continue as a seven (7) member commission. Members shall be appointed and confirmed in accordance with the approval of the Mayor and City Council.
- B. *Term.* Planning Commission members shall be residents or property owners within the City and shall not be members of the City governing authority. Members shall be appointed for one (1) year term and shall serve until their successor is appointed and qualified. Each successive appointment shall be for one (1) year.
- C. *Vacancies.* Any vacancy in membership shall be filled for the unexpired term by the governing authority who shall have the authority to remove any member for cause, on written charges, after a hearing has been held by the governing authority. If a member moves outside the City limits or sells his/her property within the City; it shall constitute a resignation from the planning commission. Vacancies for unexpired terms shall be filled in the same manner as the initial appointment and the Mayor and City Council shall appoint and confirm a member for the unexpired term of the vacating member. Members may be reappointed to successive terms without limitation.
- D. *Compensation.* All members shall be compensated in an amount as fixed from time to time by the Mayor and City Council, and each may be further reimbursed for actual expenses incurred in direct connection with official duties when said expense has the prior approval of the Mayor or City manager.

#### **17.92.012. Powers and duties.**

- A. *Recommending body.* The PC shall serve as the recommending body for the Mayor and City Council of the City of McDonough. The PC shall recommend approval or denial of applications being forwarded to the Mayor and City Council, which include:
  - 1. Comprehensive plan amendments;
  - 2. Zoning map amendments(rezoning);
  - 3. Special uses;
  - 4. Text amendments; and
  - 5. Regulations for the subdivision of land within the City, and to administer the regulations that may be adopted.

#### **17.92.013. Rules and procedures.**

- A. *Quorum.* Four (4) members of the planning commission shall constitute a quorum for the transaction of business.
- B. *Officers.* The following officers shall be established:
  - 1. The PC shall elect a chairperson that shall serve for one (1) year or until they are re-

elected, or their successor is elected.

2. A second member shall be elected as vice-chairperson, and they shall serve for one (1) year or until they are re-elected, or their successor is elected.
3. The PC shall appoint a secretary, who is an employee of the City of McDonough.
- C. *Meetings.* The PC shall meet at a minimum of once a month at a date and time established by the Director, and all meetings shall be called in accordance with the procedures in *Robert's Rules of Order*.
- D. *Rules and operating procedures.* The PC shall have the authority, with Mayor and City Council consent, to adopt any procedures concerning organization, forms for applications, filing requirements, procedures, and conduct of meetings.
- E. *Filing.* All applications shall be filed by the applicant with the Community Development Departments in the form prescribed by the Director.

#### **17.92.014. Conduct of the Planning Commission's Hearing.**

- A. *Acknowledgement.* All persons who wish to address the PC at a hearing shall first sign up on a form to be provided by the City prior to the commencement of the hearing.
- B. *Matter presented.* The chairperson will read the proposed petition under consideration in the order determined by the Director. The Director shall then present the petition, along with the staff report and all recommendations prior to receiving public input on the proposed petition.
- C. *Speakers.* The chairperson will then call each person who has signed up to speak on the petition 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 themselves and state their current address. Only those people who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the PC, in its discretion, allows the person to speak to the petition, notwithstanding the failure of the person to sign up prior to the hearing.
- D. *Time limits.* The applicant shall have a have ten (10) minutes for his presentation. Those in favor of the request shall be allotted ten (10) minutes total to speak. Those in opposition of the request shall be allotted ten (10) minutes total to speak.
- E. *Decorum and order.* Each speaker shall speak only to the merits of the proposed petition under consideration and shall address his remarks only to the members of the planning commission.
- F. *Notification.* These procedures shall be available in writing at each hearing.

#### **17.92.015. Public Hearing and Notice.**

- A. *Public hearing required.* No action shall be taken on a proposed variance by the PC without holding a public hearing on the amendment.
- B. *For all public hearings.* The City shall provide notice to the public consistent with the requirements of this section. Required public notice shall include the following:
  1. Notice sign. The petitioner shall allow the Director to post on the subject property a sign giving notice of the hearing.



- a. The sign shall be posted and remain on the property a minimum of at least fifteen (15) days before and no more than forty-five (45) days before the date of the public hearing of the Planning Commission.
2. Legal notice. The Director shall prepare a legal notice consistent with the requirements of Zoning Procedures Law of the State of Georgia for publication in the local newspaper of general circulation. Legal notices shall include each of the following:
  - a. A public hearing will be held giving the date, place, and time of the hearing;
  - b. The general location of the subject property;
  - c. The street or common address of the real estate;
  - d. The project plans are available for examination at the office of the City of McDonough's Community Development Department; and
  - e. The written comments on the petition will be accepted prior to the public hearing and may be submitted to the Director.

#### **17.92.016. Standards of Review.**

- A. In ruling on any matter herein in which the exercise of discretion is required, or in recommending any application for Zoning Map amendment the PC shall act in the best interest of the health, safety, and general welfare of the City. In doing so, they shall consider the existing land use pattern and the following factors as they may be relevant to the application:
  1. The existing land use pattern;
  2. The possible creation of an isolated district unrelated to adjacent and nearby districts;
  3. The population density pattern and possible increase or overtaxing load on public facilities including, but not limited to, schools, utilities, and streets;
  4. The cost to the City and other governmental entities in providing, upgrading, expanding, or maintaining public utilities, schools, streets, and other public safety measures;
  5. The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality, and water quantity;
  6. Whether the proposed Zoning amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;
  7. Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;
  8. The aesthetic effect of existing and future use of the property as it relates to the surrounding area;
  9. The extent to which the proposed Zoning amendment is consistent with the Land Use Plan;
  10. The possible effects of the proposed Zoning amendment to the character of a Zoning

district, a particular piece of property, neighborhood, a particular area, or the community;

11. The relation that the proposed Zoning amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these regulations;
  12. Applications for a Zoning amendment which do not contain specific site plans carry a rebuttal presumption that such rezoning shall adversely affect the zoning scheme;
  13. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight; and
  14. In the instance where a property fronts a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.
- B. After hearing evidence at the hearing, the PC shall apply the Standards of Review in making their decision to recommend approval; recommend approval subject to stated conditions; or recommend denial. It shall be the duty of the applicant to carry the burden of proof that the proposed Zoning amendment promotes the health, safety, or general welfare of the community.
- C. In the event of a tie vote on any matter, "No Recommendation with an Explanation of Why" may be forwarded to the Mayor and City Council. Additionally, unless an applicant, on the record, consents to an extension of the above time limitation, zoning applications not acted upon by the PC within 30 days of the first presentation to the Commission at a public meeting shall be forwarded by Director to the Mayor and City Council with no recommendation from the PC.

#### **17.92.017. Conditions of Approval.**

- A. In recommending an ordinance to rezone a property from one zoning classification to another, the PC may recommend to the Mayor and City Council to impose special conditions which are deemed necessary to make the requested zoning acceptable and consistent with the goals and objectives of the City's Comprehensive Plan or when deemed necessary to protect the health, welfare and safety of the community. Such conditions may include but are not limited to the following:
1. Special setback requirements from any lot line, building setback line or street;
  2. Special frontage requirements along a specific street or more;
  3. Special street access requirements or prohibitions;
  4. Specific or prohibited locations for buildings, parking, loading or storage areas or other structures;
  5. Specific restrictions regarding the nature or scale of permitted uses;
  6. Special screening or landscaping requirements which may include the location, type and maintenance of plant materials, fences, walls, beams or other buffering provisions;
  7. Special height or size requirements for permitted structures;

8. Special measures to alleviate, mitigate, or prevent undesirable light, glare, noise, dust, air emissions, vibrations or odor;
  9. Special requirements on the design and appearance of buildings and structures;
  10. Any other physical improvement the Mayor and City Council may deem necessary to achieve the purposes of this Title and protect the health, safety and welfare of the community.
- B. Any special condition(s) recommended by the PC as part of a rezoning ordinance is subject to the following and shall:
1. Be valid only if included in the Zoning amendment ordinance as adopted;
  2. Be in full force and effect for a period of time as specified in the Zoning amendment ordinance;
  3. Be applied to the property regardless of the identity of the property owner(s) or future owner(s) of the rezoned property as long as the condition(s) are in full force and effect;
  4. Be attached to any site plan submitted to the City for review and approval subsequent to the adoption of the Zoning amendment ordinance; and
  5. Be interpreted and enforced in the same manner as any other provision of the zoning ordinance.

## **Section 17.92.020. Board of Zoning Appeals (BZA)**

### **17.92.021. Board of Zoning Appeals Establishment.**

- A. The board shall consist of seven (7) members who shall be appointed by the Mayor and City Council as provided herein.
- B. The membership of the board shall be designated by post, there being one post each for District 1, District 2, District 3, District 4, Councilperson-At -Large (1), Councilperson-At-Large (2) and Mayor. The board member for each post, and his or her successor, shall be appointed by the Mayor or Councilperson then holding the respective position on the Mayor and City Council at the time of the vacancy.
- C. All members shall serve for a term of one calendar year, with the term of every seat commencing on January 1 and terminating on December 31 of the same year. Any vacancies in the membership shall be filled for the unexpired term in the same manner as the initial appointments.
- D. Members shall be reimbursed for reasonable expenses incurred in connection with their official duties and shall receive compensation for their services as determined by the Mayor and City Council. None of the members shall hold any other public office or position in the municipality, except one member may also be a member of the planning commission.
- E. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. The determination of cause shall be at the sole discretion of the Mayor and council.

### **17.92.022. Proceedings of the Board of Zoning Appeals.**

- A. The BZA shall elect a chairman and a vice-chairman from its members who shall serve for one year or until reelected or until their successors are elected. The board shall appoint a secretary, who shall be an employee of the City. The BZA shall adopt rules and bylaws in accordance with the provisions of this title. Meetings of the BZA shall be held at the call of the chairman, and at such times as the board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- B. On all appeals, application and other matters brought before the board of zoning appeals, the board shall inform in writing all parties involved of its decision.

#### **17.92.023. Variance Procedure.**

- A. An application for a variance shall be filed with the Director at least 45 days prior to the meeting of the BZA at which it is to be heard. Each application shall be accompanied by a plat drawn to scale containing the following information, in addition to any other pertinent information required by the Director:
  - 1. All property lines with dimensions.
  - 2. Location of buildings and other structures, creeks and easements referenced to property lines.
  - 3. North arrow, scale, lot and block numbers and land lot.
  - 4. Topographic and drainage information if pertinent.
- B. Each application for variance shall be made in 2 copies and shall specify the conditions and the extent of the variance sought as well as a statement demonstrating compliance with the required criteria for variance set forth below.
- C. If the Director determines that the request meets the minimum legal requirements for a variance, then the Director shall provide for the scheduling of a hearing by the BZA and give public notice of said hearing in accordance herewith.
- D. The BZA shall conduct the hearing on a properly noticed variance request and render a decision based upon the specific criteria set forth in section 17.092.025.
- E. The Director shall notify the applicant, in writing, of the decision of the BZA.

#### **17.92.024. Powers and Duties of the Board of Zoning Appeals.**

The BZA shall have the following powers and duties:

- A. *Variances.* To authorize upon appeal in specific cases such variance from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the title will in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the title shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in an individual case of unnecessary hardship upon a finding by the board of zoning appeals that the following conditions exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
  2. A literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located;
  3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located;
  4. The requested variance will be in harmony with the purpose and intent of this title and will not be injurious to the neighborhood or to the general welfare;
  5. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;
  6. The variance is not a request to permit the use of land, buildings, or structures, which are not permitted by right in the district involved.
- B. *Administrative Review.* To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Director in the enforcement of this title.

**17.92.025. Criteria for Approval.**

- A. The Zoning Board of Appeals shall have the authority to authorize upon application in specific cases a variance from the terms of this Ordinance such as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, but where the spirit of the ordinance shall be observed, and substantial justice done. No variance shall be authorized unless the Board finds that all of the following conditions exist:
1. That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.
  2. That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.
  3. That the condition from which relief or a variance is sought did not result from action by the applicant.
  4. That the authorization of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, or general welfare of the residents of the City.
  5. That the granting of the variance will not allow a structure or use in a district restricted against such structure or use.

**17.92.026. Public Hearing and Notice.**

- A. *Public hearing required.* No action shall be taken on a proposed variance by the BZA

without holding a public hearing on the amendment.

- B. *For all public hearings.* The City shall provide notice to the public consistent with the requirements of this section. Required public notice shall include the following:
1. Notice sign. The petitioner shall allow the Director to post on the subject property a sign giving notice of the hearing.
    - a. The sign shall be posted and remain on the property a minimum of at least fifteen (15) days before and no more than forty-five (45) days before the date of the public hearing of the BZA.
  2. Legal notice. The Director shall prepare a legal notice consistent with the requirements of Zoning Procedures Law of the State of Georgia for publication in the local newspaper of general circulation. Legal notices shall include each of the following:
    - a. A public hearing will be held giving the date, place, and time of the hearing;
    - b. The general location of the subject property;
    - c. The street or common address of the real estate;
    - d. The project plans are available for examination at the office of the City of McDonough's Community Development Department; and
    - e. The written comments on the petition will be accepted prior to the public hearing and may be submitted to the Director.

#### **17.92.027. Decisions of the Board of Zoning Appeals.**

- A. In exercising its powers, the BZA may, in conformity with the provisions of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all of the powers of the Director and may issue or direct the issuance of a building permit.
- B. Four members shall constitute a quorum. The concurring vote of four members of the board shall be necessary to reverse or modify any order, requirement, decision, or determination of the Director, or to decide in favor of the applicant on any matter upon which it is required to pass under this title or to affect any variation of this title.

#### **17.92.028. Use Variances.**

The BZA shall under no circumstances grant a use variance or take any action to establish a use on any property within its jurisdiction that is neither a listed permitted use nor a listed conditional use in the district in which it is located as established by article B of this chapter.

#### **17.92.029. Reapplication of Variance.**

If the decision of the BZA is to deny the variance, then the same property may not again be considered for the same variance until the expiration of at least one (1) year immediately following such denial or a reapplication that is considered significantly different from the original by the Director.

#### **17.92.030. Termination of Variance.**

A variance may cease to be authorized and terminated with proper public notification,

public hearing, and approval by the board of zoning appeals if construction has not been completed and approved within six (6) months of the date the variance is granted.

#### **17.92.031. Appeals of a Decision of the Board of Zoning Appeals.**

The decisions of the BZA are final and any appeal shall be filed within the Henry County Clerk of Superior Courts.

#### **17.92.032. Appeals from Decisions of the Director.**

It is the intent of this Chapter that all questions arising in connection with the administration and enforcement of this Title shall be presented first to the Director. If the applicant does not agree with the decision of the Director, such questions shall be presented to the BZA only on appeal of the decision of the Director.

The following procedure shall apply to all appeals from decisions of the Director;

- A. *Application:* The petitioner or representative to the applicant shall submit an application for the Appeal of the decision of the Director and required supportive information within 15 calendar days of the decision. Supportive information shall include, but not be limited to the following:
  - 1. Copies of all materials submitted to the Director or administrative board upon which the decision being appealed was based.
  - 2. Copies of any written decisions which are the subject of the appeal.
  - 3. A letter describing the reasons for the appeal noting specific sections of this Ordinance, Georgia State Code, or other standard applicable to the City of McDonough upon which the appeal is based.
- B. *Notification:* Notification for the scheduled public hearing regarding the appeal from decisions of the Director shall be compliance with state law. Any required signs shall state the time, place, purpose of the hearing, and the location of the property.
- C. *Public Hearing:* The BZA will then, in a public hearing, review the application the Appeal of the decision of the Director and supportive information.
  - 1. The applicant and their representative(s) must be present at the public hearing to present the appeal and address any questions from the BZA.
  - 2. The BZA shall consider a report from the Director, testimony from the applicant, and testimony from any interested parties at the hearing.
  - 3. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the BZA.
  - 4. The BZA may grant, grant with modifications, deny, or table the appeal.
    - a. The appeal may be approved if findings of fact are made consistent with the requirements of this Ordinance and Georgia State Code.
  - 5. The appeal may be granted with modifications if the BZA determines that the proper interpretation of the provision(s) which are the subject of the appeal is not consistent with either the decision from the Director or the requested interpretation of the applicant.
    - a. The appeal may be denied if findings of fact are made supporting the decision

from the Director.

- b. The appeal may be tabled if more information is needed for review.



## **Section 17.92.040. Zoning Amendments**

### **17.92.041. Amendments Permitted.**

This title, including the zoning map, may from time to time be amended by the Mayor and City Council.

### **17.92.042. Initiation of Amendments.**

A. *A petition to amend the zoning ordinance or zoning map may be initiated by:*

1. The Mayor and City Council;
2. The Community Development Department;
3. The Planning Commission;
4. Any person, firm, corporation or agency, having an ownership interest in the property involved in petition for amendment.

B. *Information to be provided.*

An application for rezoning, except those proposed by City, shall be accompanied by a filing fee, a City issued application form, and the application requirements listed below. The complete application shall be filed with the Director at least 30 days prior to the date of the PC meeting at which the applicant wishes the application to be considered. The Director may vary the deadline by up to seven days provided the Director determines that all advertisement and notice requirements will not be compromised.

In addition to the filing fee and the City issued application form, a non-governmental initiated application for rezoning shall contain the following:

1. A legal description of the land area which is the subject of the proposed amendment;
2. A stamped survey plat of the land area (created within one year of the application's submittal) by a registered land surveyor. The plat shall meet the requirements of the Georgia Plat Act and shall show the current zoning as well as the present zoning classification of all abutting properties;
3. A conceptual site plan depicting the proposed use of the property which shall include:
  - a. A correct scale and North arrow;
  - b. A letter of intent outlining the proposed use and improvements to the property;
  - c. The proposed location and gross square footage of all proposed buildings;
  - d. The proposed location of all driveways, streets and entry/exit points for vehicular traffic, using arrows to depict direction of movement;
  - e. Required yard setbacks appropriately dimensioned;
  - f. The location and extent of required buffer areas, depicting extent of required buffer areas, depicting extent of natural vegetation and type and location of additional vegetation if required;
  - g. Location and elevation of the 100-year floodplain on the property subject of the proposed zoning;

- h. Approximate locations of proposed loading and unloading areas;
  - i. Approximate locations of any proposed structures;
  - j. Location and acreage of all major utility easements;
  - k. For each residential use, the number of dwelling units to be allowed by type of structure (single-family detached, duplex, triplex, quadplex, townhouse, multi-family, etc.). Multi-family apartment areas should feature a list of the proposed units by number of bedrooms; and
  - l. For each office/institutional, commercial and industrial area the approximate location, maximum height and maximum square footage of each major structure (also, the proposed uses to be allowed in each area).
4. Additionally, at least two copies of the conceptual site plan shall be submitted with the rezoning application. Site plans shall be scaled to maximize clarity of the project but shall not exceed one 1 inch = 100 feet unless otherwise approved by the Director.

#### **17.92.043. Preliminary Review of Applications for Zoning Amendments.**

All proposed applications for rezoning, except those proposed by the Mayor and City Council shall be transmitted to the Director for study and recommendation by the City's planning staff and the Planning Commission. The Director shall circulate the application and/or appropriate materials regarding said application to those agencies, departments and/or entities of government which the administrator deems to be appropriate for solicitation of comments.

#### **17.92.044. Planning Commission Review.**

- A. Proposed amendments to the zoning ordinance or zoning map shall be reviewed by the PC at the soonest available meeting of the PC. At this meeting, the PC shall meet and review each application. The PC meeting shall be a public hearing with advertisements and property postings as required by this Code and the State of Georgia. The PC shall allow comments from the applicant and any interested individual present during the meeting.
- B. The action by the PC shall be one of the following:
  - 1. Recommend approval;
  - 2. Recommend approval subject to stated conditions; or
  - 3. Recommend denial.
- C. In the event of a tie vote on any matter, a "No Recommendation with an Explanation of Why" may be forwarded to the Mayor and City Council. Additionally, unless an applicant, on the record, consents to an extension of the above time limitation, zoning applications not acted upon by the PC within 30 days of the first presentation to the Commission at a public meeting shall be forwarded by the City staff to the Mayor and City Council with no recommendation from the PC.

#### **17.092.045. Hearing Procedures of Mayor and City Council.**

- A. The provisions of this section shall apply to public hearings by the Mayor and City

Council, and, where applicable, to the Planning Commission and the Board of Zoning Appeals on all Petitions for all actions under this Chapter.

- B. The governing, calling, and conducting of hearings shall be accomplished in accordance with the following policies and procedures:
1. If any person desires a copy of the minutes of the proceedings, they shall make arrangement for and bear the cost of such.
  2. The Mayor shall indicate that a public hearing has been called for the consideration of zoning decisions. Thereupon, the Mayor and City Council shall consider each application on an individual basis.
  3. Before comments and concerns of the public have been heard, the Hearing Body may thereupon request a report from officers or agents of the City.
  4. The Mayor shall allow the applicant to make a presentation, not to exceed 10 minutes. The Mayor shall then allow those individuals in support of or in opposition to the Petition to speak. The Mayor and City Council may adopt policies that limit the time of responses for the orderly conduct of the meeting. If it appears that the number of individuals wishing to appear in support of or in opposition to the Petition are in excess of that which may be reasonably heard, the Presiding Officer may request that a spokesperson for the group(s) be chosen so that the entire presentation of the positions of those in support of or in opposition to the Petition shall not exceed twenty (20) minutes.
  5. The applicant for the Zoning Amendment shall be allowed a short opportunity for rebuttal and final comment, the length of which shall not exceed ten (10) minutes.
  6. After the above procedures have been completed, the Mayor will indicate that the public hearing is formally closed.
  7. The body may either vote upon the proposed change or may delay their vote to a subsequent meeting.

**17.92.046. Standards of Review.**

- A. In ruling on any matter herein in which the exercise of discretion is required, or in ruling upon any application for Zoning Map amendment the Mayor and City Council shall act in the best interest of the health, safety, and general welfare of the City. In doing so, they shall consider the existing land use pattern and the following factors as they may be relevant to the application:
1. The existing land use pattern;
  2. The possible creation of an isolated district unrelated to adjacent and nearby districts;
  3. The population density pattern and possible increase or overtaxing load on public facilities including, but not limited to, schools, utilities, and streets;
  4. The cost to the City and other governmental entities in providing, upgrading, expanding, or maintaining public utilities, schools, streets, and other public safety measures;
  5. The possible impact on the environment, including, but not limited to, drainage, soil

- erosion and sedimentation, flooding, air quality, and water quantity;
6. Whether the proposed Zoning amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;
  7. Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;
  8. The aesthetic effect of existing and future use of the property as it relates to the surrounding area;
  9. The extent to which the proposed Zoning amendment is consistent with the Land Use Plan;
  10. The possible effects of the proposed Zoning amendment to the character of a Zoning district, a particular piece of property, neighborhood, a particular area, or the community;
  11. The relation that the proposed Zoning amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these regulations;
  12. Applications for a Zoning amendment which do not contain specific site plans carry a rebuttal presumption that such rezoning shall adversely affect the zoning scheme;
  13. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight; and
  14. In the instance where a property fronts a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.
- B. After hearing evidence at the Zoning Hearing, the Mayor and City Council shall apply the Standards of Review in making their decision. It shall be the duty of the applicant to carry the burden of proof that the proposed Zoning amendment promotes the health, safety, or general welfare of the community.
- C. If the Mayor and City Council determine from the evidence presented by the applicant has shown that the proposed Zoning amendment promotes the health, safety, and general welfare of the community under the Standards of Review, then the application may be granted, subject to those reasonable conditions as may be imposed by the Mayor and City Council pursuant to section 17.92.046. Otherwise, such application shall be denied.

#### **17.92.047. Conditions of Approval.**

- A. In adopting an ordinance to rezone a property from one zoning classification to another, the PC may recommend to the Mayor and City Council to impose special conditions which are deemed necessary to make the requested zoning acceptable and consistent with the goals and objectives of the City's Comprehensive Plan or when deemed necessary to protect the health, welfare and safety of the community. Such conditions may include but are not limited to the following:
1. Special setback requirements from any lot line, building setback line or street;

2. Special frontage requirements along a specific street or more;
  3. Special street access requirements or prohibitions;
  4. Specific or prohibited locations for buildings, parking, loading or storage areas or other structures;
  5. Specific restrictions regarding the nature or scale of permitted uses;
  6. Special screening or landscaping requirements which may include the location, type and maintenance of plant materials, fences, walls, beams or other buffering provisions;
  7. Special height or size requirements for permitted structures;
  8. Special measures to alleviate, mitigate, or prevent undesirable light, glare, noise, dust, air emissions, vibrations or odor;
  9. Special requirements on the design and appearance of buildings and structures;
  10. Any other physical improvement the Mayor and City Council may deem necessary to achieve the purposes of this Title and protect the health, safety and welfare of the community.
- B. Any special condition(s) approved by the Mayor and City Council as part of a rezoning ordinance is subject to the following and shall:
1. Be valid only if included in the Zoning amendment ordinance as adopted;
  2. Be in full force and effect for a period of time as specified in the Zoning amendment ordinance;
  3. Be applied to the property regardless of the identity of the property owner(s) or future owner(s) of the rezoned property as long as the condition(s) are in full force and effect;
  4. Be attached to any site plan submitted to the City for review and approval subsequent to the adoption of the Zoning amendment ordinance; and
  5. Be interpreted and enforced in the same manner as any other provision of the zoning ordinance.

#### **17.92.048. Withdrawal of Petition.**

A request for amendment may be withdrawn at any time prior to a decision by the Mayor and City Council, provided the withdrawal is in writing and signed by the person(s) who initiated the amendment.

#### **17.92.049. Public Hearing and Notice.**

- A. *Public hearing required.* No action shall be taken on a proposed variance by the BZA without holding a public hearing on the amendment.
- B. *For all public hearings.* The City shall provide notice to the public consistent with the requirements of this section. Required public notice shall include the following:
1. Notice sign. The petitioner shall allow the Director to post on the subject property a sign giving notice of the hearing.

- a. The sign shall be posted and remain on the property a minimum of at least fifteen (15) days before and no more than forty-five (45) days before the date of the public hearing of the Mayor and City Council.
2. Legal notice. The Director shall prepare a legal notice consistent with the requirements of Zoning Procedures Law of the State of Georgia for publication in the local newspaper of general circulation. Legal notices shall include each of the following:
  - f. A public hearing will be held giving the date, place, and time of the hearing;
  - g. The general location of the subject property;
  - h. The street or common address of the real estate;
  - i. The project plans are available for examination at the office of the City of McDonough's Community Development Department; and
  - j. The written comments on the petition will be accepted prior to the public hearing and may be submitted to the Director.

#### **17.92.050. Modifications.**

- A. *Minor Change.* The Director shall have the authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties, nor the intent or integrity of the conditions as originally imposed. Any request for a minor change of conditions shall be made in writing or by email to the Director. If an approved site plan exists, the request for a minor change shall be accompanied by copies of the revised site plan.
- B. *Major Change.* Any major change to conditions attached to an approved Zoning amendment shall require an application and hearing before the Planning Commission and the Mayor and City Council. Without limiting the meaning of the phrase, the following shall be deemed to constitute "major change" for purposes of interpreting this section:
  1. The movement of any building or structure adjacent to an exterior boundary line closer to the boundary line of the property;
  2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any non-residential building;
  3. Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;
  4. Any increase in the height of any building or structure; or
  5. Any change in the proportion of floor space devoted to different authorized uses.

#### **17.92.051. Reapplication.**

- A. If the Mayor and City Council deny a land use amendment, then the same property may not be reconsidered for a land use amendment for at least one (1) year. If the applicant wants to reapply sooner than one (1) year, the applicant must submit a new application

that is considered significantly different from the original by the Director.

- B. At any time, the Mayor and City Council may initiate a land use petition on property which was previously rezoned. However, a six (6) month waiting period based on the date of the final Council action is required when a rezoning request was previously denied.

#### **17.92.052. Revocation.**

- A. Upon the expiration of one (1) year from the date of approval for a Zoning amendment for which the development has been abandoned (abandonment shall be deemed to have occurred when no, or minimal, improvements have been made), the Mayor and City Council may rezone the property to the previous zoning district or any other zoning classification with proper public notice and action as described by this Ordinance.
- B. Upon abandonment of a development, the Director shall contact the property owner after the expiration of one (1) year to inquire about the status of the development. Prior to the public hearing, the owner may provide the Director with any documentation to be considered by the Mayor and City Council. If documentation is provided, the Mayor and City Council shall pay reasonable consideration to the following occurrences:
  - 1. Substantial monetary value placed into the development of the land,
  - 2. A delay resulting from court action involving the property in question.
  - 3. Non-availability of utilities or facilities resulting from government inaction, and
  - 4. A delay in development resulting from receiving permitting and proper approval from a Federal or State Agency.

#### **Section 17.92.060. Enforcement.**

##### **17.92.061. Authority.**

The City of McDonough and the Director of Community Development are designated to enforce the provisions, regulations, and intent of this Code. All remedies and enforcement shall comply with the powers set forth in all applicable State of Georgia laws.

##### **17.92.062. Violations.**

Complaints made pertaining to this Code shall be investigated by the Director. Action may or may not be taken depending on the findings.

##### **17.92.063. Inspection of Property.**

Investigations of property may be done from a right-of-way without permission of the property owner, or adjacent property (with permission), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection and consent of the owner is obtained.

In the event that entry to the subject property is denied, the Director may apply to the municipal court to invoke legal, applicable, or special remedy for the inspection of property and enforcement of this Code or any applicable codes adopted under State Code. The application shall include the purpose, violation(s) suspected, property address, owner's

name if available, and all relevant facts. Additional information may be necessary as requested by the court.

#### **17.92.064. Responsibility of Violation.**

The owner of any property or building, or part thereof, shall be responsible for the violation. Architects, builders, developers, or agents thereof may also be held responsible for the violation if evidence of their involvement or negligence is found. Ultimately, if fault is not clearly found in whole or in part in persons other than the owner, the owner shall be held responsible in whole or in part as warranted by the findings of the Director.

#### **17.92.065. Types of Violations.**

The following items shall be deemed civil zoning violations, enforceable by the community development Director. Penalties may be imposed based on the provisions set forth in this article.

- A. The placement or erection of a primary structure, accessory structure, sign, or any other element determined to not conform to the provisions or explicit intent of this Code;
- B. The maintenance of a primary structure, accessory structure, sign, or any other element determined to not conform to the provisions or explicit intent of this Code;
- C. Failure to obtain a building permit when required by this Code;
- D. Conducting a use or uses that do not comply with the provisions or explicit intent of this Code;
- E. Any failure to comply with the development standards and/or any regulations of this Code;
- F. Proceeding with work under a stop-work-order or a violation of a memorandum of agreement; and
- G. Any failure to comply with commitments or conditions made in connection with a rezoning, conditional use, variance or other similar conditioned commitment made by the Mayor and City Council.

#### **17.92.066. Procedure for Violations.**

There shall be a three-step procedure for violations of this Code. These steps are as follows:

- A. The Director shall issue a notice of violation to the person(s) who has committed, in whole or in part, a violation. The notice of violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within fifteen (15) days of the mailing date or posting of notice. The violator will have the opportunity to respond prior to the imposition of a penalty and further rights as provided in this Code.
- B. The Director shall issue a notice of fines and penalties to the person(s) who have committed, in whole or in part, a violation. The notice of fines and penalties is a citation that states the fines and penalties for the violation. The person(s) in violation will have fifteen (15) days to pay said fines and/or comply with the penalties. The person(s) in violation must correct the violation within fifteen (15) days or face additional notices of fines and penalties.



- C. If the person(s) in violation refuses to pay or comply with the penalties, or correct the violation, after notice has been given, the department of community development and/or City of McDonough may pursue court action through the municipal court. Fines and liens against the property may also be pursued until the matter is resolved.

**17.92.067. Immediate Public Risk Violations.**

Any violation of this Code which presents an immediate risk to the health, safety, or welfare of the City of McDonough may be corrected by the Director without prior notice to the property owner or other person responsible for the violation.

A. Immediate public risk violations shall include:

1. Signs, structures, landscaping or other materials placed in a public right-of-way, easement, or sight visibility triangle in violation of this Code.
2. Any sign, structure, landscaping, or other material located on private property which serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public.
3. Any other immediate threat to public welfare as determined by the Community Development Director, City police department, City fire department, and/or other City departments.

B. The Director shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this Code, by either placing a notice in a conspicuous place on the property or by letter.

1. The notice shall be sent to the property owner via certified mail within twenty-four (24) hours of the seizure.
2. The notice shall include the following:
  - a. A description of the materials seized;
  - b. A citation of the sections of the Code which were violated and the characteristics of the violation which posed an immediate threat to public welfare;
  - c. The address and phone number of the Department of Community Development and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item; and
  - d. Instructions describing how, where, and when the items seized may be claimed.

D. The Director shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than thirty (30) days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of a twenty-five dollar (\$25.00) fine and the establishment of a memorandum of agreement between the property owner and Director regarding the future use of the item in a manner consistent with this Code.

E. Neither the Community Development Director, the building inspector, nor any other official or entity involved in the seizure shall be liable for any damage to the seized item or the property from which it was taken.

#### **17.92.068. Fines and Penalties.**

Any person, firm, partnership, corporation or other entity found to be in violation of this Title 17 shall be punishable by a fine as allowed by Section 9.12 of the Charter. The Community Development Director, by mandatory injunction in the City Municipal Court against the owner or possessor of the real estate, may require the removal of a structure erected in violation of this Code, or the removal of any use or condition in violation of this Code.

- A. Monetary fines may be imposed for each civil violation determined upon a single inspection. Fines shall be assessed for each day that the violation is present following the provision of any notice of violation to the property owner or other responsible party.
- B. No fine for any single violation shall exceed one thousand dollars (\$1,000.00) per day.

#### **17.92.069. Appeals or Trials.**

- A. Any person receiving a Notice of Violation and/or fines and penalties may appeal the violation and/or fine to the City Municipal Court. A written statement from the person in violation, giving notice of the filing of an action with a court, shall be submitted to the Director via certified mail at least three (3) days prior to the date any fine is due.
- B. Fines due will be postponed until the court of jurisdiction have made a ruling as to the violation and/or fine. Failure to meet these deadlines will reinstate all fines due by the person(s) in violation.
- C. No additional notices will be issued by the Director if the person(s) in violation has (have) submitted an appeal or notice of court review.

#### **17.92.070. Enforcement, Remedies, or Injunctive Relief.**

The Community Development Director may bring an action in the City Municipal Court to evoke any legal, equitable, or special remedy, for the enforcement of any code or regulation, and its subsequent amendments.

#### **17.92.071. Eminent Domain.**

If the City or any other lawfully constituted state or federal governmental authority, agency or body or utility having the authority of eminent domain condemns or acquires property in the City, and, as the sole result of such condemnation or acquisition, any nonconformity is created in setback lines, required lot size, density, or parking regulations, the Director shall be authorized to grant such administrative variances as are necessary to bring any structure, sign (including a sign as may be relocated in accordance with the signage regulations of the City Code), building or property into conformance upon receipt of a properly documented request, to remain as it exists at the time of condemnation or acquisition. The Director shall be required to maintain records which support the basis for granting such variance. Any variance granted under this section shall only apply to the current zoning district and existing structure, sign or use such that if there is any legally existing nonconformity, the same is not unduly expanded in degree.

## **CHAPTER 17.100.000. SUPPLEMENTAL STANDARDS**

### **Section 17.100.010. Introduction.**

All structures, land uses, land use changes, structural alterations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or otherwise occur after the effective date of this Code shall be subject to all development standards and regulations for the applicable zoning district.

### **Structure 17.100.020. Expansion or Modification of Existing Uses and Structures.**

No structure, parking area, or other site feature regulated by this Code shall be enlarged, altered, or expanded unless the minimum requirements of this Code met by the property to the extent of its alteration or expansion.

An alteration or expansion to an existing property is substantial when the area or square footage of the expanded or altered land (including property used for building space, parking, or storage) or structure, respectively, exceeds twenty-five (25) percent of the area or square footage of the existing land or structure, exclusive of the alteration or expansion.

### **Section 17.100.030. Height Standards.**

- A. The maximum height permitted shall be as noted in each zoning district.
- B. No structure may be erected or changed so as to make its height greater than specified in the applicable zoning district, except as noted below. Exceptions to the height standards include:
  - 1. The following structures may exceed the permitted height:
    - a. Church steeples,
    - b. Water towers, and
    - c. Utility transmission towers.
  - 2. The following structures may exceed the permitted height standards by up to fifteen (15) feet, but shall be completely screened from view:
    - a. Mechanicals, and
    - b. Elevator bulkheads.

### **Section 17.100.040 Accessory Use/Structure Standards.**

All accessory uses and structures shall be permitted on the same lot as the primary use or structure only.

- A. No accessory structures shall be placed in any required setbacks and shall otherwise comply with all development standards for the zoning district in which they are located.
- B. Accessory uses and structures shall not be permitted to be located, placed, or established on any lot prior to the establishment of a primary use or structure unless otherwise permitted by this Code.
- C. Structures not deemed accessories include swing sets, mailboxes, lamp posts, doghouses, tree houses, and other such incidentals except as otherwise stated in this Code.

- D. The following accessory structures require a building permit, and are subject to all the applicable requirements of this Code:
1. Attached and detached decks,
  2. Patios that are two (2) feet or more above the natural grade of the surrounding yard,
  3. Gazebos, Pergolas, Outdoor Kitchens,
  4. Garden sheds, lawnmower sheds, greenhouses, barns,
  5. Guesthouses, In-law Houses, Cabanas,
  6. Dumpsters, and
  7. Similar structures related to the primary use.
- E. Accessory uses and structures shall comply with the following requirements:
1. In RA, R-200, R-100, and R-85 zoning districts, no more than three (3) accessory structures may be placed on any one (1) lot. A detached accessory dwelling unit is included in the three (3) accessory structure maximum; and
  2. In R-75 and R-60 zoning districts, no more than one (1) accessory structure may be placed on any one (1) lot. Detached accessory units are prohibited; and
  3. The combined area of all accessory uses and structures on any one (1) lot may not exceed an amount equal to fifty (50) percent of the heated floor area of the primary structure on that lot. (Depends on lot size)
  4. No accessory structures shall encroach on any platted easement.
  5. No accessory structures shall be placed in any operable septic fields.
  6. A minimum separation of twenty (20) feet shall be provided between an accessory structure and any primary structure or other accessory structure.
  7. All accessory structures shall be placed a minimum of five (5) feet from the side and rear property lines, unless otherwise restricted by ordinance.

**Section 17.100.050 Accessory Dwelling Units (guesthouses, in-law suites, caretaker houses).**

- A. Accessory dwelling units include basement apartments, garage apartments, caretaker or other employee quarters, guest houses, and other accessory dwellings.
- B. Accessory dwelling units shall not be used as rental property. They may only be occupied by family members, guests, or employees of the property owner.
- C. Accessory dwelling units are permitted within a principal dwelling or as a freestanding dwelling as noted below.
- D. Accessory dwelling units contained within a principal dwelling of all single-family zoning districts shall comply with the following standards:
1. No more than one (1) accessory dwelling shall be established within a principal dwelling unit, and the accessory dwelling shall meet all the setback requirements of the Principal residence.
  2. One (1) additional parking space shall be provided to serve an accessory dwelling.

3. Accessory dwelling units shall comply with all building and health code standards.
  4. Accessory dwelling units located within the Principal residence must have an interior connecting door to be in compliance with this Code.
- E. Freestanding accessory dwelling units in all single-family zoning districts shall comply with the following standards:
1. No more than one (1) freestanding accessory dwelling unit shall be established on a residential lot.
  2. An accessory dwelling unit may be located on the second floor over a detached garage, or it may be a separate structure.
  3. Accessory dwelling units shall be located within the side or rear yard.
  4. Accessory dwelling units shall be located within a minimum of twenty (20) feet from the primary structure.
  5. The residential lot shall comply with the minimum lot area standards for the district, except that in no case shall an accessory dwelling unit be located on a lot served by county sewer having less than one (1) acre of lot area.
  6. One (1) additional required parking space shall be provided to serve the accessory dwelling unit.

#### **Section 17.100.060. Temporary Building Standards.**

Temporary buildings that are used in conjunction with construction work may only be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work. Facade approval is required, along with any necessary building permits.

#### **Section 17.100.070. Home Occupation Standards.**

Home occupations are those which meet the following standards; representing requirements which permit minimal business practices in certain residential zoning districts while maintaining residential character. The home occupation must not involve retail sales or manufacturing and shall be limited to small home-office operations.

- A. *Location.* Home occupation shall be conducted only within the principal residential structure, including garage area, and only if garage door remains closed.
1. No home occupation permit/license shall be issued for a hotel, motel, intown suite, short-term rental, extended stay facility or any similar type of facility.
  2. If the garage is used as a work area for a home occupation, the residence must still meet the required parking requirements for the district where the lot is located.
- B. *Use of Premises.* An area equal to not more than twenty-five (25) percent of the full area of the principal structure and garage area may be utilized for home occupational purposes.
- C. *Group Instruction/Assembly.* No home occupation shall be permitted wherein group instruction or group assembly, or activity is involved. To that end, no dance instruction, exercise classes or similar activities.
- D. *Employees.* Only members of a family residing on the premises may be employed on the

premises in pursuit of the business, trade, or occupation or profession.

- E. Commodity.* No commodity shall be sold on the premises.
- F. Outdoor Storage.* No outdoor storage of any items related to the business, trade, profession, or occupation shall be allowed in connection with any home occupation.
- G. Maintenance of Residential Character.* No alteration of the residential character of the premises may be made, and the home occupation shall not be allowed to create a nuisance or to create any undue disturbance.
- I. Signs.* No signs relating to the home occupation shall be allowed on the premises.
- J. Noise.* No business, trade, profession, or occupation shall qualify as a home occupation if the pursuit of such generates noise which is audible beyond the property lines of the property upon which the premises is located.
- K. Vehicles.*
  - 1. No business, trade, profession, or occupation which generates vehicular trips of non-residents to the premises exceeding ten (10) per day shall qualify as a home occupation.
  - 2. No business delivery may be made to the premises holding the home occupation license by any semi-tractor trailer.
  - 3. For purposes of this paragraph, the term "common carrier" shall include any delivery vehicle having more than two (2) axles.
  - 4. No vehicles which display advertising relating to an occupation, business, trade, or profession carried on the premises of a home occupation may be utilized in such a manner so as to avoid the restriction on signs contained above.
  - 5. No more than one (1) passenger vehicle displaying advertising relating to the business, trade, profession, or occupation carried on the premises may be parked on or about the premises at anyone (1) time. Off street parking must be provided on paved surfaces.
- N. Storage or Parking of Equipment.* Except as allowed by K.5 above, no business, trade, occupation, or profession otherwise qualifying as a home occupation shall be permitted to park or store any vehicular or motorized equipment, including, but not limited to, trucks, vans, tractors, earth moving equipment, construction vehicles, trailers, or like items used in conducting of such business on the premises.
- O. Chemicals.* No business, trade, occupation, or profession which would otherwise qualify as home occupation may store any chemical not normally used for common household purposes on the premises.
- P. Inspections.* If complaints are received by the City concerning a home occupation, the home occupation licensee agrees that the City may conduct an inspection during normal business hours for the purpose of determining whether the provisions of this Code are being complied with by the licensee.
- Q. Occasional Use.* The occasional use of portions of the premises for the receipt of telephone calls, or the maintenance of a home office by an employee or owner of a business which maintains an active office location in a properly zoned area shall not

require a home occupation permit, provided that all the other limitations of this section shall control.

- R. *Produce.* Nothing contained within this chapter shall prohibit the occasional sales of seasonal produce grown entirely upon the premises from a home garden.
- S. *Interference.* No equipment or processes shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference, outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any television or radio receivers off the premises or causes fluctuations in line voltage off the premises.
- T. The following are permitted home occupations provided they do not violate any of the provisions of this section or any other section within this article:
1. Dressmaking, sewing and tailoring.
  2. Painting, sculpturing, writing and other fine arts.
  3. Telephone answering and marketing.
  4. Home crafts, such as model making, rug weaving, and lapidary work.
  5. Instruction or teaching, such as academic, tutoring, performing arts, or fine arts limited to one (1) student at any given time.
  6. Computer application and internet sales, not including the sale of computers.
  7. Office uses for consulting professionals, such as attorneys, realtors, insurance agents, engineers, architects, and other consultants, accountants, brokers, etc.
  8. Administrative or clerical support services, such as transcription, court reporters, stenographers, notary public, or addressing services.
  9. Repair of clocks, instruments or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors or result in electrical interference.
  10. Janitorial and cleaning services.
  11. Consultants and representatives for the sales industry having no product displays onsite.
  12. Dispatch and administrative services for a taxi service, limousine rental, and/or Medical Transportation (non-emergency) with no storage of vehicles to be dispatched.
  13. Tutoring Services to children six (6) years of age and above with no more than 2 students at any one time. Tutoring Services can only be offered after schools have been let out during the week and any time on weekends.
- U. Due to incompatibility with the residential character and qualities of residential zoning districts, no license shall be issued for a home occupation in any of the following trades or businesses:
1. Automotive repair.
  2. Auto sales.

3. Firearms and firearms' supplies dealers/sales/service (including gunsmithing).
4. Group assembly or instruction involving more than four (4) persons.
5. Dancing or band instrument instruction in groups involving two (2) or more persons.
6. Mobile oil change.
7. Pest control services.
8. Septic tank operation or repair.
9. Storage of Taxicabs, limousines, and/or Medical Transportation Vans/Buses.
10. In-Home Children or Adult Day Care, non-family member.

## **Section 17.100.080 Age-Restricted Housing**

### **17.100.081. Purpose.**

The purpose of this section is to determine where Age-Restricted Adult Housing may be located and to provide minimum standards. The intent of this section is to encourage age-appropriate housing for individuals with mobility, sensory, and cognitive limitations. Though these regulations require that overall developments feature a measure of accessibility, full accessibility is encouraged. Accessibility is defined by the Georgia Accessibility Code as amended, and any Age-Restricted Adult Housing Development must meet the same standards required by Georgia Accessibility Code 120-3-20-.54 in order to be considered fully accessible.

Senior Adult Housing may be allowed in the following zoning districts as either the Primary Use or Supplemental Use, in addition to another permitted use: RA, R-200, R-100, R-85, R-75, R-60, MR-75, and MU, provided that, at a minimum, the following restrictions apply. Final plats and all required construction documents shall include a notation specifying "Age-Restricted Adult Housing." The Development Standards For Senior Adult Housing are listed below. Developments must also comply with the districts in which they are located, including any overlay districts. In this section, "Senior Adult Housing" does not include Assisted Living Facilities or Nursing Homes.

#### **A. Unit Types Allowed:**

1. Only single-family detached units may be allowed in RA, R-200, R-100, and R-85.
2. R-75 and R-60 Districts have additional requirements which can be found in Section 17.100.81.N of this Code.
3. Assisted Living Facilities and Nursing Homes are allowed in Age-Restricted Communities in RA, R-200, R-100, and R-85 with a Special Use Permit.
4. Only Multi-Family Units May Be Allowed In MR-75 And MU Districts.
5. Single-family detached units, Duplexes, Assisted Living Facilities and Nursing Homes are allowed by right in C-3 Highway Commercial if there is an existing grocery store within 2,650 feet or half (0.5) miles.
6. See Section 17.100.081.(N, O, & P) for additional requirements for R-75, R-60, MR-75, and MU Districts.



- B. An Age-Restricted Housing development shall have a minimum of twenty (20) dwelling units.
- C. The maximum net density shall meet the future land use plan requirements.
- D. At least forty percent (40%) of the gross site area shall be Open Space. The Open Space shall provide amenities such as pathways, seating areas, and recreation areas for residents. Open Space shall be protective of natural features.
- E. The minimum square footage of an on-site community building shall be based on the following heated floor area:
  - 1. Twenty (20) square feet of heated floor area per dwelling unit for the first ninety-nine (99) units with a minimum of five hundred (500) square feet; and
  - 2. Ten (10) square feet of heated floor area per additional dwelling unit for all dwelling units greater than ninety-nine (99) units.
- F. For Phased Developments, Open Space and amenities shall be provided in each phase and meet the requirements as stated herein of the residents of each phase. All the amenity options shall be found in Section 17.120.092. The developer shall provide a schedule for the installation of facilities at the time of the first permit approval. For a phased development, all the approved amenities per phase shall be 100% complete before the next phase shall be permitted.
- G. Before the first permit application, the developer shall establish how the age restrictions will be implemented and maintained over time. If the development is anything other than a rental community under single ownership, a common entity such as a condominium association, a homeowners' association, or a property management company is mandatory and shall be established to maintain and enforce the age restrictions in addition to the City of McDonough's enforcement of zoning regulations.
- H. The minimum unit size shall be twelve hundred (1,200) square feet for single-family and duplexes.
- I. All single-family and duplexes shall be one-story if sold or rented as Age-Restricted.
- I. All single-family and duplexes shall feature a two (2) car garage.
- I. All Open Space and amenities (See 17.120.091 and 17.120.092) shall be fully accessible and shall be managed and maintained by the owner of the development or a common entity such as a condominium association, or a homeowner's association.
- J. All structures within the development shall be Fully Accessible. The Development shall incorporate Universal Design features, as are listed below. The application shall include descriptions of the Universal Design features of proposed dwellings to demonstrate their appropriateness for the Age-Restricted population. The material that is submitted shall indicate how Universal Design features will be used to make individual dwellings adaptable to individuals with mobility, sensory, or otherwise functional limitations; and how the design will provide accessible routes between parking areas, sidewalks, the front doors of the dwelling units, and common areas. These routes shall be a minimum of ten (10) feet wide, allowing mobility-enhancing devices to meet and pass safely.
  - 1. "No-Step" (maximum vertical floor level change of one-quarter ( $\frac{1}{4}$ ) inch, except where a tapered threshold is used, which has a maximum height of one-half ( $\frac{1}{2}$ )

inch access to the front door entrance to all dwelling units and community buildings is required. If a no-step front entrance is not feasible, an alternate no-step walkway to the front floor may be approved by the Director.

2. A minimum thirty-six (36) inch wide front door with exterior lighting at the entrance is required. Exterior doors shall be provided with an artificial light source located in the immediate vicinity of the exterior door. The illumination of the exterior light shall be controlled from inside the dwelling, except for lights that are continuously illuminated or automatically controlled. All exterior lighting shall be shielded to reduce light pollution, minimize glare and sky glow, improve health, comply with code, and to increase energy efficiency.
  3. All interior doorways must have a minimum of thirty-six (36) inch clear width in the open position.
  4. A thirty-six (36) inch fully accessible route must connect throughout the floor, which is served by the front door of the dwelling unit. The maximum vertical floor level change is one-quarter ( $\frac{1}{4}$ ) inch, except where a tapered threshold is used, which has a maximum height of one-half ( $\frac{1}{2}$ ) inch.
  5. A complete living area, including, but not limited to, kitchen, dining area, laundry room, master bedroom, and bathroom, shall be located on the floor served by the front door of the dwelling unit.
  6. Lever handles are required on all interior and exterior doors.
  7. Clear floor space of thirty (30) inches by forty-eight (48) inches shall be provided and centered on each appliance and fixture in the kitchen. floor space can overlap.
  8. Walls shall be reinforced (blocked) to allow for the installation of grab bars around the toilet, tub, and shower stall; and of wall-hung bench shower seat.
  9. Maneuvering space shall be provided within the bathroom to permit a person using a mobility aid to enter the room, close the door, and reopen the door with a clear floor space of thirty (30) inches by forty-eight (48) inches. Clear floor space of thirty (30) inches by forty-eight (48) inches shall be provided and centered on each fixture in the bathroom. Floor space may overlap.
  10. Wall-mounted electrical outlets, light switches, and environmental controls shall be mounted for a reaching range of a minimum of fifteen (15) inches to a maximum of forty-eight (48) inches above the floor. Such wall-mounted devices shall feature a contrasting color from the surrounding wall.
- K. Assisted-Living Facilities and/or Nursing Homes are permitted by right in an Age-Restrict Housing District zoned R-75, R-60, RM-75, and MU along as they meet all the supplemental standards found in 17.100.81.L, M, and/or N.
- L. In an Assisted-Living Facilities, the minimum square footage for a studio unit shall be 400 square feet, 700 square feet for a one-bedroom unit, and 1,000 square feet for a two-bedroom unit.
- M. Ten (10) percent of all dwelling units shall be wheelchair accessible. These dwelling units shall include the following features at minimize:
1. Entry: Wheelchair accessible entrances, including zero-step entrances

2. Doorways: Doorways that are at least 36 inches wide, with lever handles instead of knobs
  3. Hallways: Wider hallways to allow for maneuvering
  4. Kitchens: Kitchens with low counters and sinks, roll-under cooktops, and appliances that are close together. The kitchens shall feature pull-down upper shelves.
  5. Bathrooms: Bathrooms with reinforced walls for grab bars, and wheel-in showers
  6. Bedrooms: Bedrooms shall be sized to allow a king-sized bed to have a thirty-six (36) inch pathway on each side of the bed along with the typical bedroom furnishes.
  7. Closets: Closets with slide or bi-fold doors that have at least 48 inches of clear space from the opened door's edge
  8. Electrical outlets, light switches, and thermostats: Electrical outlets, light switches, and thermostats that are wheelchair accessible and located within reach
  9. Flooring: Luxury Vinyl Plank (LVP) and/or Luxury Vinyl Tile (LVT) flooring that is slip-resistant and easy to roll over in a wheelchair
  10. Textures: Different textures on glass and fabrics to help people navigate the space
  11. Rounded corners: Rounded corners that are easier for people to navigate than sharp corners.
  12. Laundry area: Shall meet requirements set forth in the ADA Standards for washing machines and clothes dryers.
- N. To utilize an R-75 or R-60 district for Senior Adult Housing, the following additional requirements shall be met:
1. A twenty-four (24) hour Urgent Care shall be located onsite or within one (1) mile of the development.
  2. Shall have On-Site Community Center that features a restaurant that is capable of serving breakfast, lunch and dinner. The dining area shall be a minimum of twenty (20) square feet in size per residential unit and located within the On-Site Community Center.
  3. Shall have a multi-purpose area for use by the residents within the residential building. The multi-purpose area shall be a minimum of twenty (20) square feet in size per residential unit and shall be separate from the dining area.
  4. Shall have a fitness center with exercise equipment, including treadmills, weights, exercise classes, etc. on-site or within one (1) mile of the development.
  5. Each unit shall be handicap accessible and each unit shall be designed and constructed to be able to be fully utilized by handicapped persons as required by the Americans with Disabilities Act ("ADA").
  6. Guest parking shall be provided at a ratio of one (1) parking space per five (5) residential units and occupy no more than twenty-five (25) percent of said area.
  7. Shall have a full self-contained kitchen facility and washer and dryer hookups in each residential unit.

8. Shall have an architecturally designed outdoor covered pavilion in a common area with ceiling fans, men's and women's restrooms with a minimum of two (2) stalls each, and at least two (2) commercial grade charcoal or natural gas grills. The pavilion shall be at least 1,500 square feet in size.
9. Shall be entirely non-smoking within any enclosed portion of any building or structure, or residential units.
10. Twenty (20) percent of all dwelling units shall be wheelchair accessible
11. Shall not have an overall net density in excess of 15 residential units per acre with one (1) bedroom units being no smaller than 1,200 square feet in size; and two (2) bedroom units being no smaller than 1,400 square feet in size. Units greater than two (2) bedrooms shall not be permitted.
12. Shall be residential in appearance with a pitched roof and clad in brick on all facades.
13. Shall have appropriate restrictive covenants and a duly organized condominium or homeowners' association to ensure the perpetual maintenance of all common areas and building(s).
14. Shall be located within a half (0.5) mile of a supermarket with a pharmacy or a free-standing pharmacy.
15. Housing types permitted shall be single-family residences and duplexes.
- O. To utilize an RM-75 or MU district for Senior Adult Housing, the following additional requirements shall be met:
  1. In an MR-75 or MU district, the minimum number of units is fifty (50).
  2. Shall have twenty-four (24) hour on-site medical and nursing care provided by certified medical care providers.
  3. Shall have a common area for dining with three (3) hot meals prepared each day for residents. This common area shall be a minimum of twenty (20) square feet in size per residential unit and located within an On-Site Community Center.
  4. Shall have a multi-purpose area for use by the residents within the residential building. The multi-purpose area shall be a minimum of twenty (20) square feet in size per residential unit.
  5. Shall have a fitness center with exercise equipment, including treadmills, weights, and exercise classes. The fitness center shall be a minimum of ten (10) square feet in size per residential unit and located within the On-Site Community Center.
  6. Shall have heated and air-conditioned interior hallways for access and egress to each residential unit connected to a central secured exterior access point.
  7. Twenty (20) percent of units shall have handicap accessibility, and each unit shall be designed and constructed to be able to be fully utilized by handicapped persons as required by the Americans with Disabilities Act ("ADA"). Handicap accessibility shall be a feature of all interior hallways and elevators.
  8. Twenty-five (25) percent of all dwelling units shall be wheelchair accessible
  9. Shall have handicap accessible covered exterior balconies for each unit which shall be

at least 120 square feet in size.

10. Shall have a van accessible covered drop off and pick up entry/exit point at the centralized secured exterior access point.
  11. Shall have appropriate and customary facilities for health and safety, including a barber shop, beauty shop, and drycleaners in all assisted living centers containing fifty (50) dwelling units or more. Such facilities shall be restricted to residential use.
  12. Shall have a multi-purpose area for use by the residents within the residential building. The multi-purpose area shall be a minimum of twenty (20) square feet in size per residential unit.
  13. Shall be located within a half (0.5) mile of a supermarket with a pharmacy or a free-standing pharmacy.
  14. Van service shall be provided for all residents for shopping, medical appointments, worship services, field trips, etc. The vehicle utilized for the van service shall feature ramps and kneeling systems.
- P. No variances are allowed from the additional requirements for Senior Adult Housing located in R-60, MR-75, or MU Districts.

#### **Section 17.100.090. Day Care Facilities and Centers Standards.**

- A. All children's Day Care Facilities shall the following requirements when located within a commercial building or commercial zoning district:
1. All regulated facilities shall comply with the state regulation and acquire applicable state licenses for operation.
  2. Each child day care facility shall provide not less than thirty-five (35) square feet of indoor play area for each child, based on maximum permissible enrollment.
  3. Each child day care facility shall provide not less than two hundred (200) square feet of outdoor play area for each child, based on maximum permissible enrollment.
  4. All facilities must apply for and receive a City business license.

#### **Section 17.100.100. Personal Care Home, Group Home, and Boarding Home Standards.**

- A. *Personal Care Home, Group Home, and Boarding Home having three (3) or less persons.* Each personal care home, boarding home, and group home having three (3) or less persons shall be subject to the following requirements:
1. All regulated facilities shall comply with the state regulations and acquire applicable state licenses for operation.
  2. The exterior appearance of any residential structure for which a personal care home, boarding home, or group home is approved, shall be maintained as a residential structure and no signs shall be erected.
  3. Meet all regulations as identified in the adopted building code and adopted fire code.
  4. Meet all parking standards as identified within this Code.
  5. Each bedroom in a personal care, group and/or boarding home shall have an ensuite bathroom and one employee bathroom that meet all applicable ADA

requirements.

6. Each personal care, group and/or boarding home shall have a hard-wired smoke, carbon dioxide, and/or burglar system with a hardwired connection to a 24-hour a day service center that shall call police, fire, and/or ambulance as needed.
7. All facilities must apply for and receive a City business license and will be subject to inspection with no advance notice.

*B. Personal Care Home, Group Home, and Boarding Home having four (4) or more persons.* Each personal care home, boarding home, and group home having four (4) or more persons shall be subject to permitted subject to approval of a special use permit by the Mayor and City Council and the following requirements:

1. All regulated facilities shall comply with the state regulation and acquire applicable state licenses for operation.
2. The exterior appearance of any residential structure for which a personal care home, boarding home, or group home is approved, shall be maintained as a residential structure and no signs shall be erected.
3. Meet all regulations as identified in the adopted building code and adopted fire code.
4. Meet all parking standards as identified within this Code.
5. Each bedroom in a personal care, group and/or boarding home shall have an ensuite bathroom and one employee bathroom that meets all applicable ADA requirements.
6. Each personal care, group and/or boarding home shall have a hard-wired smoke, carbon dioxide, and/or burglar system with a hardwired connection to a 24-hour a day service center that shall call police, fire, and/or ambulance as needed.
7. All facilities must apply for and receive a City business license and will be subject to inspection with no advance notice.

#### **Section 17.100.110. Halfway Houses**

A. Halfway houses shall meet the following requirements:

1. The exterior appearance of any halfway house shall be residential in design and shall blend with the surrounding residential structures and shall be maintained as a residential structure with no identification signage.
2. Meet all regulations as identified in the adopted building code and adopted fire code.
3. Meet all parking standards as identified within this Code.
4. Each bedroom in a halfway house shall have an ensuite bathroom that meets all applicable ADA requirements. One employee bathroom that meets all applicable ADA requirements shall be provided.
5. Each halfway house shall have a hard-wired smoke, carbon dioxide, and/or burglar system with a hardwired connection to a 24-hour a day service center that shall call police, fire, and/or ambulance as needed.

6. All facilities must apply for and receive a City business license and shall be subject to inspections with no advance notice.
  7. The facility provides laundry facilities on the premises for the residents' personal laundry.
  8. No alcoholic beverages or controlled substances shall be stored, served, sold, consumed, or in the possession of any person in the facility.
  9. The number of halfway houses within the City Limits of the City of McDonough does not exceed one (1) facility for each twenty thousand (20,000) citizens or fraction thereof, according to the closest United States Decennial Census
  10. No halfway houses shall be located within a one (1) mile radius of another halfway house, residential facility, personal care home, group home, or boarding homes
  11. Permitted locations: Halfway houses or residential facility shall be authorized uses only in the following districts:
    1. O-I Office Institutional District;
- B. *Additional public hearing requirements.* When a proposed zoning decision relates to or will allow the location or relocation of a halfway house, an initial public hearing shall be held for discussion on the proposed action. The initial public hearing shall be held at least six months but not more than nine months prior to the date of final action on the zoning decision. Final action on the zoning decision shall be by way of a second public hearing which shall then be held. The City shall give notice of the initial hearing required under this section by:
1. Posting notice in a conspicuous location on the property not less than 15 days prior to the date of the hearing. Such notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house. Such notice shall additionally include the current zoning classification of the property, the proposed zoning classification of the property, and the date of the initial public hearing.
  2. In addition to the notice above, the City shall cause to run in a newspaper of general circulation within the territorial boundaries of the local government, at least 15 days and not more than 45 days prior to the date of the hearing, notice which shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house. Such notice shall also set forth the location of the property, the current zoning classification of the property, the proposed zoning classification of the property, and the date of the initial public hearing. Said published notice shall not be located in the classified advertising section of the newspaper.

**Section 17.100.120. Standards for Automobile Uses.**

- A. *Automobile Uses cannot be combined except for the following:*
1. New Automobile Dealerships with Auto Repairs and Collision Centers; and
  2. New Automobile Dealerships with Rental Facilities; and

2. Auto Wash and Wax Centers with Gasoline Stations.

B. *Location of Automobile Sales and Rental Facilities.*

1. No property used for Automobile sales and service, or rental facilities shall be located within 50 feet of any property that is being used for any residential purposes. The distance shall be measured between the nearest property line of the vehicle sales or rental use to the nearest property line of the residential use.
  2. Automobile sales and service facilities shall not be located in multi-tenant centers or strip commercial centers.
  3. *Automobile sales (indoor, showroom).* Automobile sales and service or rental facilities in which the entire operation is housed completely indoors with no outdoor storage, or display, or a vehicle service component shall be considered as a retail use for the purpose of landscape and buffers and shall be allowable as specified in the allowable use table (see Section 17.90.040).
  4. Towing companies may carry a license for accessory, wholesale vehicle sales of no more than seven vehicles at any one time and must carry a wholesale dealer license through the State of Georgia. No retail automobile sales will be allowed and the presence of any signage indicating sale to the public at the location shall be considered evidence of a code violation. All automobiles shall be buffered by an opaque fence of six feet in height and a twenty-five (25) foot wide required landscape buffer. The other supplemental standards for vehicle sales do not apply to the towing business beyond those listed in this section.
  5. Automobile rental facilities for any vehicles that are not cars, light trucks, or vans, are only allowed in C-3 and M-1 districts.
- C. All areas for display or sale shall be pervious surface and shall not be elevated above the existing grade. Areas for display or sale are limited to those that are clearly marked on the approved site plan. Such areas shall not include the parking lots or parking spaces required to meet off-street parking requirements. All required parking areas and driveways shall be impervious surfaces.
- D. Only motor vehicles, trailers, and marine vehicles that are operable may be sold or leased. For the sale of cars and trucks, there is a required minimum lot size of two acres and be consistent with all other requirements of this Code.
- E. The owner of a new or used motor vehicle, marine, recreational vehicle sale, lease or rental facility or lot shall formulate a plan and inventory for the safe storage of flammable or hazardous materials to be stored or used on the property. The inventory shall be submitted to the City prior to the building permit approval, and it shall list the type, quantity and location of these materials and be kept current pursuant to direction provided by the City.
- F. Under no circumstances shall any vehicles, signs, banners, tents, or other items be stored, parked, displayed, or otherwise placed on public rights-of-way at any time. Tents, along with attention getting devices are permitted only with the approval of a temporary use permit, pursuant to Sign Code.
- G. No exterior lighting shall shine or cause glare on any abutting property.



- H. Telephone loudspeakers or paging systems are prohibited.
- I. All outside storage and loading areas shall be screened from view from adjacent properties with a twenty-five (25) buffer along the entire side and rear property lines. For properties exceeding five acres in size, the City may require a masonry wall and additional landscape buffering along rear yard, side yards and front yards if determined necessary to mitigate visual impacts of the use. To further the same goal, the City may require landscaping improvements or a contribution to the City for landscaping and irrigation improvements to be installed and maintained within the public right-of-way adjacent to the frontage of the property.
- The outdoor storage of inoperable/wrecked vehicles, automobile parts, discarded tires, or similar materials shall be permitted in a fenced area featuring a six (6) foot wooden fence at the rear of the property outside of any required landscape buffer. Items can be stored in this area for no longer than thirty (30) days.
- J. No loading or unloading of any vehicles may occur on any public right-of-way or in any off-site location, unless prior approval has been received from the City.
- K. All applications for automobile sales or rental facility that does not currently exist on the property or for the expansion of existing legally conforming vehicle sales or rental facilities where additional lands are taken shall require a site plan consistent with all of the requirements of this Code. The site plan must demonstrate full compliance with this section along with all current applicable development design standards, including, but not limited to, parking, storm-water management, setbacks, architecture, and landscape. Existing infrastructure and buildings to be used as part of a new or expanded vehicle sales or rental facility shall be treated as new construction and must comply with all design standards, including meeting all current stormwater management regulations, regardless of prior use or time unoccupied and without any credit given for existing infrastructure towards stormwater management requirements.
- L. The City may impose conditions upon the requested automobile sales facility and operation to mitigate against its traffic impacts concerning sales events or other events that cause high level of traffic generation to and from the property. Such conditions may include the submittal and implementation of an acceptable maintenance of traffic plan and a requirement to hire police officers to direct and regulate traffic during such events.
- M. Minor automotive repair businesses such as oil change facilities, muffler shops, shock absorber replacement, tire stores, minor engine repair, subject to the following conditions:
1. All repair work shall be conducted completely within an enclosed building.
  2. The shop shall feature garage doors that are located on the side or rear of the building. No garage doors are allowed on the front façade.
  3. No outdoor display of rims and/or new tires in the front yard setback, and this includes adjacent to the front of the building.
  4. Vehicles shall not be allowed to be stored outside for more than forty-eight (48) hours unless awaiting repair for which a work order, signed by the vehicle owner, is posted in the vehicle so as to be visible from outside the vehicle. Vehicles with valid work

orders may be stored in the rear yard for up to thirty (30) days.

5. The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent air, soil and groundwater contamination caused by spills, discharges or leakage, such as but not limited to special check valves, drain back catch basins and automatic shut off valves. The site and business operation shall be maintained in accordance with the PIPP and all applicable local, state and federal environmental protection laws, ordinances and regulations.
  6. In the event that an automotive repair business has been abandoned or terminated, a new conditional use approval shall be required before the site can be re-occupied for any use.
  7. The outdoor storage of inoperable/wrecked vehicles, automobile parts, discarded tires, or similar materials shall be permitted in a fenced area featuring a six (6) foot wooden fence at the rear of the property outside of any required landscape buffer. Items can be stored in this area for no longer than thirty (30) days.
  8. An automotive repair business cannot be located within one-half (1/2) mile radius of another automotive repair business.
- N. Major auto repair, including but not limited to engine and transmission repair and replacement are subject to the following:
1. All repair work shall be conducted completely within an enclosed building.
  2. The shop shall feature garage doors that are located on the side or rear of the building. No garage doors are allowed on the front façade.
  3. Vehicles shall not be allowed to be stored outside for more than forty-eight (48) hours unless awaiting repair for which a work order, signed by the vehicle owner, is posted in the vehicle so as to be visible from outside the vehicle. Vehicles with valid work orders may be stored in the rear yard for up to fourteen (14) days.
  4. The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent air, soil and groundwater contamination caused by spills, discharges or leakage, such as but not limited to special check valves, drain back catch basins and automatic shut off valves. The site and business operation shall be maintained in accordance with the PIPP and all applicable local, state and federal environmental protection laws, ordinances and regulations.
  5. In the event that an automotive repair business has been abandoned or terminated, a new conditional use approval shall be required before the site can be re-occupied for any use.
  6. The outdoor storage of inoperable/wrecked vehicles, automobile parts, discarded tires, or similar materials shall be permitted in a fenced area featuring a six (6) foot wooden fence at the rear of the property outside of any required landscape buffer. Items can be stored in this area for no longer than thirty (30) days.
  7. In accordance with the PIPP and all applicable local, state and federal environmental protection laws, ordinances and regulations.
- O. Automobile Collision Centers are allowable uses pursuant to the following supplemental standards:

1. All service, repair, body and paint work shall only be conducted within an enclosed building which meets all applicable local, federal and state requirements, including health, safety and fire prevention regulations. All major overhaul, body and fender work, upholstery and welding shall be conducted within a completely enclosed building.
  2. All spray painting shall be conducted within an approved spray booth.
  3. No outdoor storage of inoperable vehicles, automobile parts, discarded tires, or similar materials shall be permitted.
  4. Body shops are allowed as a primary use in C-3 and M-1 Districts pursuant to the following standards in addition to all other relevant standards in this Code:
    - a. The shop shall feature garage doors that are located on the side or rear of the building. No garage doors are allowed on the front façade.
    - b. Where a body shop is adjacent to a residential area, an eight-foot wall of brick, stone, or decorative pre-fabricated concrete is required.
    - c. All spray painting shall be conducted within a spray booth that is reviewed and permitted by the City.
    - d. When adjacent to residentially-zoned property or property in residential use, all applications for a body shop shall be accompanied by an environmental mitigation plan that indicates how steps will be taken to reduce noise, smell, and other potential impacts to adjacent properties. Elements of the plan may include windows, doors, and filtration systems that reduce outside impacts.
    - e. The building must be a minimum of 5,000 square feet, made of concrete block construction with a decorative exterior including a high level of architectural design.
- P. Mechanical repairs, body and paint repairs are permitted as an accessory use to conforming facilities providing automotive, boat and recreational vehicle sales. Such repairs shall only be conducted within an enclosed building which meets all applicable local, federal and state requirements, including health, safety and fire prevention regulations.
- Q. The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to prevent air, soil and groundwater contamination caused by spills, discharges or leakage, such as but not limited to special check valves, drain back catch basins and automatic shut off valves.
- R. *Automobile Wash*, automatic or self-service are subject to the following supplemental standards:
1. New car washes shall not be located within a one-mile radius of an existing car wash, whether or not the existing car wash is within the city limits or not. The distance shall be measured from the closest property line of each property.
  2. All washing facilities shall be within a completely enclosed building.
  3. Vacuuming and drying may be located outside the building but shall not be located in the required front yard and shall be set back at least 50 feet from any residential

district or existing residential use.

- 4 All cars required to wait for access to the facilities shall be provided stacking spaces fully off the street right-of-way that does not conflict with vehicle maneuvering areas to access gasoline pumps or vacuums and required parking spaces.
1. All signs located throughout the site such as those that label the vacuum stations shall count toward to the total sign area permitted for the site.

#### **Section 17.100.130. Gas Station Standards.**

Gas stations shall meet the following standards:

- A. No gas station shall be located within a one (1) mile radius of another gas station.
- B. Gasoline pump islands may be permitted only when they can be located between the rear of the principal building and the rear lot line.
- C. One trash receptacle shall be placed between each service pump, and one trash receptacle shall be placed by each entry door to the store.
- D. Detention facilities for gas stations shall utilize underground detention/retention facilities. An underground detention/retention facility that is deemed not feasible by the City of McDonough Storm Water division shall apply for an administrative waiver from the Director of Public Works.

#### **Section 17.100.140. Drive-thru Standards.**

To be permitted, a drive-thru shall be constructed and screened as follows:

- A. Drive-through windows, doors, canopies, and call boxes shall be screened from view from any dedicated rights-of-way and from adjacent residentially zoned property and/or any existing residential use.
- B. No outdoor speakers shall be directed toward adjoining residentially zoned property and/or any existing residential use.
- C. Surveillance cameras shall be required in accordance with standards set forth by the Police Department.
- D. Overflow of the drive-through line shall not block or back-up on a public street at no time.

#### **Section 17.100.150. Hotel and Extended Stay Hotel Standards.**

- A. Hotel and Extended-Stay Hotel standards apply to all zoning districts where permitted.
  1. No more than five (5) percent of a hotel guest rooms shall have fixed cooking appliances located therein. If more than five (5) percent of a hotel guest rooms contain fixed cooking appliances, such hotel is considered an extended-stay hotel and subject to the below regulations regarding extended-stay hotels.
    - a. For the purposes of this section, the term "fixed cooking appliances" shall mean a stove top burner; hotplate; conventional oven; convection oven; or any oven producing heat using resistance heating elements, induction heating, or infrared heating sources.
  2. Surveillance cameras shall be required in accordance with standards set forth by the Police Department

B. These extended stay hotel standards apply to all zoning districts.

1. No extended-stay hotel shall be initially constructed or thereafter operated; or no hotel may be converted to or operated as an extended-stay hotel unless in full compliance with each of the following provisions:
  - a. The minimum square footage per guest room of an extended-stay hotel shall be three-hundred and fifty (350) square feet.
  - b. An extended-stay hotel shall be no less than four (4) stories or forty-five (45) in height.
  - c. An extended-stay hotel must have an enclosed, heated and air-conditioned laundry space containing at least two (2) clothes washers and two (2) clothes dryers for guests for every two (2) floors.
  - d. An extended-stay hotel shall include a lobby with a minimum of two thousand (2,000) square feet of dedicated indoor space for a business center, conversation areas, or recreational use by guests.
  - f. An extended-stay hotel shall include a dedicated outdoor space with a minimum of one thousand (1,000) square feet for every two (2) floors to be utilized for passive or recreational use.
  - g. Parking areas of extended-stay hotels must have secured, lighted parking area that meets the requirement of this Code and is approved by the Director.
  - i. Extended-stay hotels shall be classified as one (1) of the following chain segments to operate in the City: Upper Midscale; Upscale; Upper Upscale; or Luxury as classified by the STR Chain Scales Report. No extended-stay hotels shall be constructed or thereafter operated unless the extended-stay hotel is classified in one (1) of the applicable segments. For the purposes of this section, "the STR Chain Scales Report" means a report produced by Smith Travel Research, a leading lodging industry data and benchmarking firm, which is updated on an annual basis to reflect equivalent Average Daily Rates (ADR) across lodging chains within a particular market or geography.
  - j. The City may re-evaluate the chain scale classification report every twelve (12) months to reflect current market conditions.

**Section 17.100.160 Pawn Shops or Pawnbrokers.**

- A. No pawn shop shall be located within a one (1) mile radius of any existing pawn shop.
- B. A pawn shop shall not be established or expanded within one thousand (1,000) feet of a residential use.
- C. A pawn shop shall not be established or expanded within one thousand (1,000) feet of the place of worship, school or public park.
- D. All measurements are from closest property line to closest property line measured in a straight line.
- E. See Chapter 5.40 – Pawnshops for additional requirements.

### **Section 17.100.170 Places of Assembly.**

- A. The following are designated as specific type(s) of place of assembly:
  - 1. Movie theaters;
  - 2. Banquet halls;
  - 3. Concert halls;
  - 4. Private commercial/vocational schools (including martial arts or dance studios, and technical or vocational training); and
  - 5. Clubs and/or lodges.
- B. In the event any of the uses in subsection (A) above shall be designed to serve more than one hundred (100) people at any given time, the parcel shall:
  - 1. Shall be located on a lot fronting a major thoroughfare.
  - 2. Shall be located on a tract of land not less than five (5) acres in area and having a street frontage of not less than two hundred (200) feet; and
  - 3. Shall meet the parking requirements set forth within this ordinance.

### **Section 17.100.180 Places of Worship**

- A. Places of Worship shall meet the following standards:
    - 1. A twenty-five (25) feet wide buffer strip is established along all lot lines not abutting a public right-of-way.
    - 2. Places of Worship are subject to the landscape requirements of the underlying zoning district.
    - 3. A 10-foot-wide landscape strip is provided along any public right-of-way.
- No cemetery shall be located on the premises.
- 4. A Place of Worship shall meet the parking and parking lot landscape requirements set forth in this ordinance, one hundred (100) percent of the parking shall be provided in the rear or side yard. No parking is allowed between front wall of the main assembly building and a public road.
  - 5. Shall be located on a lot fronting a major thoroughfare or collector.
  - 7. Be located on a tract of land not less than two (2) acres in area and having a street frontage of not less than two hundred (200) feet.

### **Section 17.100.190. Cemetery.**

- A. Cemeteries shall meet the following standards:
  - 1. All buildings and graves shall be set back at least fifty (50) feet from any property line.
  - 2. A twenty-five (25) feet buffer strip is established along all abutting interior lot lines; and
  - 3. The lot is at least ten (10) acres.
  - 4. Cemeteries shall be subject to the landscape requirements of the underlying zoning

district.

#### **Section 17.100.200. Small Box Stores.**

- A. Small Box Stores shall meet the following requirements:
  - 1. Shall not be located within a one (1) mile radius of another existing small box store, full-service supermarket or big box store.
  - 2. The distance shall be measured in a straight line from the outer property line of an existing small box store, full-service supermarket or big box store to the closest property boundary line of the proposed small box discount variety store.
- B. Incidental outdoor displays are prohibited at any small box stores.
- C. A non-conforming small box discount variety store in existence prior to the adoption of this code may relocate on the same parcel or within the same shopping center that it currently resides.
- E. Dumpsters must be enclosed on four (4) sides with one single opening accessible for solid waste pick up and physically closed and secured at all other items. See Dumpster standards.
- F. For Box cart enclosures, see Section 17.100.230.

#### **Section 17.100.210. Self-Storage Facilities and Mini Warehousing.**

- A. Self-storage facilities and mini warehousing shall meet the following standards:
  - 1. All self-storage and mini warehousing facilities shall be separated by at least two (2) miles.
  - 2. All self-storage and mini warehousing facilities shall be climate controlled and provide access through the interior of the building.
  - 3. Any outdoor storage must be enclosed on three sides and covered.
  - 4. Any outdoor storage shall only be permitted within the rear and side yards and completely screened from the right-of-way.
  - 5. Any fencing adjacent to a public street shall be a six (6) foot wrought iron or metal fencing with an additional center horizontal member at three (3) feet that prevents the pickets from being spread apart.

#### **Section 17.100.220. Dumpster Enclosures**

- A. Shall be constructed of concrete block to a minimum height of eight (8) feet and clad with brick or stone to match the façade of the primary building.
- B. Drawings of the footing details shall be provided that are stamped by a registered engineer.
- C. Solid steel gates utilizing heavy duty hardware shall be provided.
- D. The gates shall not be mounted to the masonry walls of the dumpster enclosures for any reason. These gates shall be mounted to steel posts that are sized to support the weight and operation of the solid steel gates.
- E. One (1) inch diameter cane bolts with raised position hooks shall be provided.

- F. Drilled cane bolt anchors for closed and open gate positions shall be provided.
- G. Bollards shall be located within the dumpster enclosure to prevent damage to the masonry walls. There shall be one (1) foot of clearance between the back of the bollard and the adjacent masonry walls.
- H. Additional requirements shall be added based on the Use(s) that utilize the dumpster.

#### **Section 17.100.230. Box Cart Enclosures.**

- A. Box carts shall be stored behind a six (6) foot, wooden fence that is adjacent to the Dumpster enclosure.
- B. The box cart enclosure shall adequately contain all box carts within a four (4) sided, fenced area and that features an eight (8) foot double gate on one side for access purposes.
- C. Box carts shall be stored in the enclosure at all times and not left outside in the parking or loading area.
- D. One (1) inch diameter cane bolts with raised position hooks shall be provided.
- E. Drilled cane bolt anchors for closed and open gate positions shall be provided.
- F. The gates shall be mounted to steel posts that are sized to support the weight and operation of wooden gates.

#### **Section 17.100.240. Swimming Pools.**

All swimming pools shall comply with the following requirements:

- A. *Construction Plan:* An application for a permit to construct a swimming pool shall be submitted to and approved by the Building Official.
- B. *Pool Location:* Swimming pools and their auxiliary structures shall maintain a twenty (20) foot setback from side and rear property lines or the same setback as the principle structure, whichever is less. Swimming pools shall not be located within the required front yard of any lot or closer to the front lot line than the principal building on the lot. Pools may also not be located within a buffer or easement.
- C. *Accessory Buildings:* Pool houses, cabanas and other structures related to a swimming pool shall be subject to all of the requirements for "accessory buildings" and shall maintain a minimum ten (10) foot setback from side and rear lot lines or the same setbacks as the principal.
- D. *Fencing:* All swimming pools shall be enclosed by a fence that is at least 5 feet in height and constructed so as not to pass a four (4) inch diameter sphere through any opening. The fence must be maintained in good condition, and the gates shall be self-closing and self-latching. The fencing shall be located so as to not obstruct visibility at road intersections.

#### **Section 17.100.250. Infill Lots.**

In the case of a Primary Structure being built on an Infill Lot, the front setback shall be based on the average of the front setbacks of the adjacent Primary Structure on the left and right sides of the infill lot. If the abutting property is an empty lot(s), the front setback of the nearest adjacent Primary Structure shall be used. Additional methods of averaging the



front setback of an infill structure shall be approved by the Director.

**Section 17.100.260. Public and Private Development.**

- A. All development involving two or more parcels of land or principal buildings shall be done in compliance with this Code. Streets constructed as a part of sub-dividing a parcel of one and two family dwelling unit subdivisions must be dedicated to the City of McDonough as public rights of way.
- B. Driveways constructed in new multi-family developments such as apartment and condominium complexes must be constructed in accordance with the minimum standards set forth in this Code for local residential streets.
- C. Driveways constructed in new multi-family developments may only be dedicated as public rights of way upon approval of the Mayor and City Council.
- D. The requirements for installation of improvements found in the Code may only be altered when part of a planned development and such alteration is part of the plan approved by the Mayor and City Council.
- E. Private roads constructed for the purpose of establishing gated communities may be granted as a variance by City Council only after development plans meeting the following conditions are submitted by the developer and reviewed and approved by the City:
  - 5. All private roads must be designed and constructed according to this Code.
  - 6. Gates must be set back a minimum of 50 feet from public right-of-way. Minimum gate width must equal the required road width plus the width of any utility easements present, but in no case shall the width be less than 30 feet, provided, however, that the required gate width may be accomplished through the combination of adjacent entrance and exit gates of equal width.
  - 7. Gate width and placement must be reviewed by, and are subject to approval by, both the Fire Department and Department of Public Works.
- D. Arrangements for access through the gate for emergency service vehicles must be reviewed by, and are subject to approval by, the Fire Department. Emergency service vehicles include, but are not limited to, fire suppression equipment, medical emergency vehicles and law-enforcement vehicles. Necessary arrangements include but are not limited to; Emergency Mechanical Disconnects (crash bolts), siren activated entry (Siren Operated Sensor) compatible with all City equipment which is currently used or may be used in the future, Knox/fire boxes for keyed/keyless entry, keypad code entry, occupant telephone authorized entry, and automatic gate opening upon power disconnect.
- E. Arrangements for access through the gate for non-emergency service vehicles must be reviewed by, and are subject to approval by, the Department of Public Works. Non-emergency public service vehicles include, but are not limited to, mail delivery, garbage pickup, public utility meter reading and public utility maintenance. Necessary arrangements include, but are not limited to, access easements for refuse collection vehicles and appropriate utility easements for public utility development and maintenance.

- F. Gates may not restrict access to any public right-of-way or publicly owned property within the proposed development.
- G. The City must be properly indemnified against any liability resulting from the proposed development. This indemnification shall be evidenced by: 1) The Release and Indemnity Agreement placed on the plat; 2) a separate release and indemnity agreement executed by the developer; 3) a clause in each deed of conveyance by the developer for each lot in the subdivision acknowledging the release and indemnity agreement; 4) assumption of liability of the release and indemnity agreement by the homeowners association; and 5) assumption of liability of the release and indemnity agreement in the Protective Covenants which shall become part of the covenants of the subdivision. The developer's liability shall end three years after the last lot has been sold by the developer, provided that there are then no pending or threatened claims against the developer, the City or the Homeowners' Association. All language for liability agreements and covenants shall read as required by the City.
- H. The Developer shall grant such easements to the appropriate governing authority or utility company as are necessary for public purposes regarding said community.
- I. In the event that the developer does not obtain any approval required hereunder, same shall not alleviate the requirement of obtaining such approval.
- J. The following standards shall be used by Mayor and City Council when considering any variance request for gated communities:
  - 1. The number of units in the development shall not be excessive as identified on the Future Land Use Map of the City.
  - 2. The developer must demonstrate adequate provision for maintenance of the private road and any other infrastructure associated with the development, including but not limited to a note on the plat and a clause in each deed of conveyance by the developer for each lot in the subdivision acknowledging the perpetual maintenance of the private road (and other private infrastructure) by the Homeowners' Association.
  - 3. The developer must demonstrate an adequate strategy for necessary access.
  - 4. The private road and gate must not unreasonably impede the logical future development of public roads in the vicinity of the project.
  - 5. The private road and gate must not unreasonably restrict public access to sites of cultural, historical or natural significance.
  - 6. The private road and gate must not unreasonably restrict previously established pedestrian access.
  - 7. The establishment of gated communities must not have unreasonable negative effects on the health and welfare of the community or the good order of the City.

**Section 17.100.270. Private Street Notification by Developer and Home Owners Association.**

In conjunction with the creation of the Mandatory Home Owners Association, there shall be master protective covenants for the communities that have private streets.

- A. The master protective covenants shall be recorded in the Deed Records of Henry County, Georgia, and shall contain covenants, rules, and regulations applicable to the residential community. The master protective covenants must be approved by the City before being recorded.
- B. The mandatory association shall be responsible for the enforcement of the covenants. The covenants shall require the home owners association to budget or plan appropriately for all maintenance costs associated with all private streets within the proposed community.
- C. Further, within all sales information, purchase contracts, and the like, notification shall be provided to all future and potential future homeowners of the requirement for the home owners association to maintain all private streets.

**Section 17.100.280. Cluster Residential Development Projects (CRD).**

- A. *Cluster Residential Development Projects* provide for the grouping of attached and detached Tiny Homes on lots that may be smaller than allowed in a zoning district, for the purpose of providing permanent common use of common space land, preservation of natural terrain features, and economy in the provision of public facilities and services. A Cluster subdivision may be allowed as part of a PUD. Water and sanitary sewer are required.

- B. *Required Information.*

The information required for THC projects shall be the same as required for preliminary plats. In addition, the following information shall be required:

- i. Building elevation plans showing typical building design.
  - ii. Typical floor plans of individual dwelling units.
- 3. Restrictive covenants specifying the ownership of common space and recreation facilities and their method and responsibility for maintenance.
- 8. Rules and regulations for condominium arrangements, and provisions for the continuance of the homeowner's association.
- 6. *Development Standards.*

The Planning Commission and the Mayor and City Council may approve a site plan for the CRD comprehensive development, including a preliminary and final plat which departs from the standard street and lot arrangement requirements of this ordinance if the departure can be made without altering the purpose and intent of these regulations, and which will fulfill the objective of a comprehensively planned development that will provide maximum preservation of common spaces, natural features, and livability for the occupants of the development.

**Section 17.100.290. Tiny Home Cluster Development Projects (THC).**

- A. *Tiny Home Cluster Development Projects* (THC) provide for the grouping of attached and detached Tiny Homes on lots that may be smaller than allowed in a zoning district, for the purpose of providing permanent common use of common space land, preservation of natural terrain features, and economy in the provision of public facilities and services. A Tiny Home Cluster subdivision may be allowed as part of a PUD. Water and

sanitary sewer are required.

**B. *Required Information.***

The information required for THC projects shall be the same as required for preliminary plats. In addition, the following information shall be required:

1. Building elevation plans showing typical building design.
2. Typical floor plans of individual dwelling units.
3. Restrictive covenants specifying the ownership of common space and recreation facilities and their method and responsibility for maintenance.
4. Rules and regulations for condominium arrangements, and provisions for the continuance of the homeowner's association.

**C. *Development Standards.***

The Planning Commission and the Mayor and City Council may approve a site plan for the THC development, including a preliminary and final plat which departs from the standard street and lot arrangement requirements of this ordinance if the departure can be made without altering the purpose and intent of these regulations, and which will fulfill the objective of a comprehensively planned development that will provide maximum preservation of common spaces, natural features, and livability for the occupants of the development.

**Section 17.100.300. Dwelling, "For-Rent" Residential.**

**A. *Standards for developing For-Rent Residential Units in R-75 and R-60.***

1. Required off-street parking spaces shall be located at the rear of the unit and be no greater than 600 feet. The off-street parking shall be thirty (30) feet in depth as measured from the rear door of the unit to the Public Right-of-Way
2. Buildings with "for-rent" use shall incorporate outdoor amenity spaces and available as passive or active recreational space by occupants, subject to the following:
  - a. Outdoor amenity space shall be provided at a minimum ratio of seventy-five (75) square feet per dwelling unit.
  - b. Outdoor amenity space may be met in one contiguous open area or in multiple open areas. To receive credit the area must be at least 10 feet in both length and depth.
  - c. In calculating the minimum outdoor amenity space requirement, the following can be included: swimming pools, paved surfaces and structures when they are a part of approved features such as gazebos, fountains, and plazas (but excluding any parking areas serving such approved features), ground-level active and passive recreational facilities, roof decks, and roof top gardens

**B. *Standards for developing For-Rent Residential Units in RTD.***

1. Be oriented to the sidewalk.
2. Provide individual unit entrance from the exterior of the building.

3. Provide individual stoops or porches.
4. Provide a minimum of one ground floor window facing the sidewalk.
5. No storage sheds, interior furniture, or any other item, except patio furniture or potted plants, may be placed on decks, patios or porches.
8. All required parking shall be located in an attached or detached garage at the rear of the unit. This garage shall be a minimum of five-hundred (500) square feet

*C. Standards for developing For-Rent Residential Units in MU – Mixed Use District.*

1. In calculating the minimum outdoor amenity space requirement, open and public spaces counting towards the minimum requirements of the applicable zoning district may not be included.
2. For-rent dwellings are prohibited on first floor of building on a Storefront Street. A maximum of two building sides shall be permitted first floor dwellings. In addition, all ground floor residential units shall:
  - a. Be oriented to the sidewalk.
  - b. Provide individual unit entrance from the exterior of the building.
  - c. Provide individual stoops or porches.
  - d. Provide a minimum of one ground floor window facing the sidewalk.
3. A minimum of 100 percent of dwelling units above the first-floor shall have balconies with a minimum floor dimension of 6 feet by 8 feet.
4. No bicycles, storage boxes, storage crates, interior furniture, or any other item, except patio furniture or potted plants, may be placed on balconies.
5. First floor shall be a minimum of 14 ft. as measured from floor to ceiling, additional floors shall be a minimum of 9' floor to ceiling.
6. Adequate provision for the disposal of refuse shall be made within each apartment building, or such refuse shall be conveyed to a central point or points to facilitate collection.
7. A minimum of 30 square feet of separate storage closet shall be provided for each dwelling units. This storage space should be convenient to the outdoor balcony and appropriate for storage of trunks and items of dead storage.
8. For Rent units shall be incorporated as part of a mixed use project and incorporate a neighborhood grocery of sufficient size to support the development.
9. All required parking shall be located within four-hundred (400) feet of each building containing "For-Rent" Residential Units.

**Section 17.100.310. Procedures to Establish a Residential Infill Overlay District.**

- A. The City shall require the filing of a petition and completed application for any Residential Infill Overlay District on forms promulgated by the Community Development department director. A Residential Infill Overlay District shall apply to established neighborhoods without a homeowner's association (HOA).
- B. Any person(s) interested in pursuing the approval of a Residential Infill Overlay District

upon request to the Community Development department will be provided with a petition and application form. The petition will allow for persons to sign in favor of the approval of a Residential Infill Overlay District. All signatories to the petition must be real property owners residing within the proposed Residential Infill Overlay District. The Community Development director shall not allow the petition process for the adoption of a Residential Infill Overlay District ordinance to begin to be reviewed and investigated by city staff until thirty (30) percent of the property owners in the proposed Residential Infill Overlay District have voted in favor of the imposition of the Residential Infill Overlay District designation by signing the petition described in this division. Once the thirty (30) percent threshold has been achieved, the Community Development director shall initiate notice to all property owners within the proposed district of a public hearing to be held at the Planning Commission and City Council meetings.

- C. Application forms must be accompanied by a boundary map and a complete list of each property located in the Residential Infill Overlay District by street address or tax parcel identification number(s). All applications must be accompanied by a written description of why the particular properties qualify for a Residential Infill Overlay District designation. This written description shall include an analysis of all the following criteria that shall guide the Planning Commission and City Council in deciding if specific property should be classified as a Residential Infill Overlay District:
  - 2. Whether the built environment of a neighborhood and its location, size or age, is one in which it is desirable to ensure that new and remodeled single-family dwellings and related accessory uses and structures are compatible with the height, size, and level of forestation of the existing dwellings and lots; and
  - 3. Whether there is a need to establish and maintain a balance between preserving the character of a mature neighborhood while accommodating compatible new residential developments.
- D. All applications and petitions for a Residential Infill Overlay District shall become final upon presentation and approval at a public hearing before the Planning Commission and City Council, at which time the petition will include a minimum of two-thirds ( $\frac{2}{3}$ ) of the property owners having voted in favor of the imposition of the Residential Infill Overlay District designation.
- E. The staff of the Community Development department shall conduct a site inspection on all complete applications for a Residential Infill Overlay District designation and shall investigate and prepare an analysis of such application and shall include a written analysis of whether the properties at issue satisfy the criteria identified in subsection C. The staff of the Community Development department shall present its findings and recommendations in written form to the Planning Commission and City Council. Copies of the written findings shall be reasonably available to the public.
- F. In addition to all other applicable standards and criteria, the Planning Commission and City Council shall consider whether the property at issue satisfies the criteria set forth in subsection C. If the Planning Commission and City Council approves the creation of a specific Residential Infill Overlay District, the newly created district shall be governed by the regulations in this division and any other applicable regulations in the code.

## **Section 17.100.320. Compliance to Title 17 – Zoning Regulations for Existing Developments.**

- A. *Conditions for Compliance.* Development and structures existing prior to adoption of this Code shall comply with the requirements of this Code when any of the following conditions are met:
1. *Change of Permitted Use.* Structures utilized by a single business which are not a part of a development with multiple land uses such as a shopping center, and which structures were in existence prior to the adoption of the Code, shall comply with these Code requirements upon change of permitted use that would require an increase in the number of parking and loading spaces needed to service the structure.
  2. *Additions.* Any additions to developments or structures, including construction of parking lots, that add fifty (50) percent or more to the size of the original development shall comply with all Code requirements.
  3. *Renovations.* Developments and structures existing at the time of the adoption of this Code shall comply with its requirements when (1) renovation of any structure involves a change in the user and use of the area involved in the renovation and (2) renovation expenses in any twelve-month period exceed fifty (50) percent of the fair market value of the existing improvements in the development as shown by the most recent tax assessment, which tax assessment information shall be provided by the applicant in affidavit form. A change in the entity that is the user shall not be considered a change of user when there is no material change between the owners of the prior and new user entities.
- B. *Support Buildings and Structures.* New support buildings or structures or the relocation on the same development site of existing support buildings or structures shall, in accordance with subsection (A)(3) hereof, comply with all Code requirements for support buildings and structures.
- C. *Space Limitations of Existing Structures.* When a condition for compliance applies, an existing development or structure shall comply with all Code requirements to the maximum extent practicable subject to space limitations of existing structures and improvements in accordance with the general intent of the landscaping and buffer provisions of this Code. Removal of an existing structure, improvement, or required legal off-street parking space will not be required in order to comply with Code requirements.
- D. *Development for Structures with Multiple Land Uses and Occupants.* When any portion of a development or structure with multiple land uses such as a shopping center meets any of the conditions delineated in subsections (A)(2) or (3), a comprehensive plan shall be required to bring the site into compliance with Code requirements. The site shall be required to come into compliance with the Code requirements in proportion to the cost of the renovation or additions in gross floor area to the existing development. The plan shall show the improvement that could be made to bring the developer into compliance with the Code considering space limitations, the cost of each of those improvements and shall list the improvements to be made. The cost of the improvements to be made shall equal or exceed the cost of the renovation or addition

to the existing development.

- E. *Development Approval.* The Director may approve a site plan for an existing development that complies with Code requirements to the maximum extent practicable. A feature of the plan that fails to meet to the maximum extent practicable, or any new structure or improvement that fails to fully meet Code requirements shall be subject to the procedures for site plan review with variances.

#### **Section 17.100.330. Vape, Smoke, and Tobacco Store Standards.**

A. *Location and Minimum Distance.*

1. No license shall be issued under this division for the sale of alternative nicotine products and/or vapor products if the intended premises is within 300 feet of any church building, or on any property owned or leased to a church, or in or within 600 feet of any school building, educational building, school grounds, college campus, or on any property owned or leased to a public or private school or school board for elementary or secondary education.
2. Vape, Smoke and Tobacco Store shall not be located within a one (1) mile radius of another existing Vape, Smoke and Tobacco Store.
3. Provided, however, that any premises that sells alternative nicotine products and/or vapor products as of January 1, 2025 and that is located within such restricted proximity may continue to sell such products in such premises, provided that said license holder remains in compliance with all other provisions of this division and the use of the premises to sell alternative nicotine products and/or vapor products remains ongoing and continuous, and provided further that no license renewal application is denied for violating this section if at the time of the original license application the location was in compliance with this section.
4. If the sale of alternative nicotine products and/or vapor products is discontinued, the grandfathering entitlement under this paragraph shall be forfeited.

#### **Section 17.100.340 – Retail sales of alcoholic beverages near churches, school buildings, or other sites.**

A. No person knowingly and intentionally may sell or offer to sell:

1. Any distilled spirits in or within 300 feet of any church building or within 600 feet of any school building, educational building, school grounds, or college campus;
2. Any wine or malt beverages within 300 feet of any school building, school grounds, or college campus. This subparagraph shall not apply at any location for which a license has been issued prior to July 1, 1981, nor to the renewal of such license. Nor shall this subparagraph apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application. Nothing in this subparagraph shall prohibit a grocery store licensed for the retail sale of only wine and malt beverages for consumption off the premises from selling wine or malt beverages within 300 feet of any school building or college campus, where so permitted by resolution or ordinance of the county or municipality. As used in this subparagraph, the term "grocery store" means a retail establishment



which has a total retail floor space of at least 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic items, conducts all of its sales inside the building containing its retail floor space, and meets such other criteria as may be required by the local governing authority of the county or municipality; or

3. Any distilled spirits, wine, or malt beverages within 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipal government therein. This paragraph shall not apply to any business having a license in effect on July 1, 1981.
4. As used in this section, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools.

## **Section 17.100.350. Portfolio of Architectural Plans.**

### **17.100.351. Intent.**

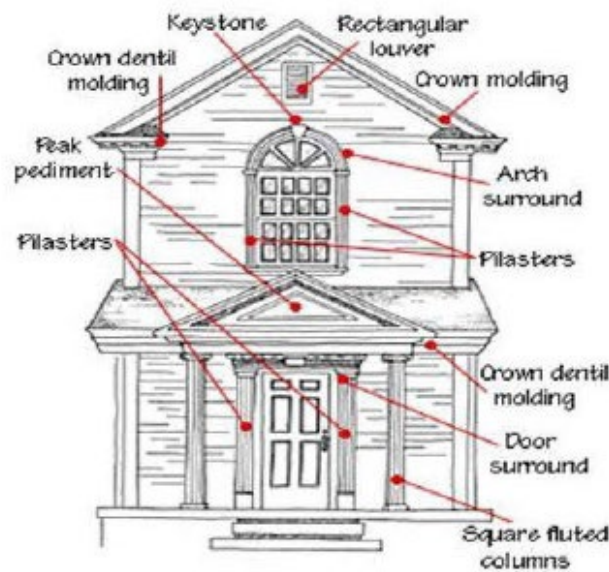
Building design contributes to the City of McDonough's sense of place by using predominant materials, elements, features, and land uses tailored specifically to an area and its context. The Portfolio is a requirement of the Land Development Permit, Rezoning, and/or Preliminary Plat processes. Through the Portfolio, the City can provide the public with a visual expectation of a new development. In addition, the Portfolio uses building design regulations to promote quality architecture style that preserves the City of McDonough's heritage and sense of place.

### **17.100.352. Applicability.**

The provisions of this Division apply to all single-family, two-family, multi-family, and townhouses in all zoning districts.

### **17.100.353. Façades.**

Facades must be articulated by using color, arrangement, or change in materials to emphasize the façade elements. Exterior wall planes may be varied in height, depth, or direction and utilize the Golden Ratio Principle of Design. Design elements and detailing, including the presentation of windows and window treatments (for walls that face the public right-of-way), trim detailing, and exterior wall materials, must be continued completely around the structure. Doors and windows must be detailed to add visual interest to the façade.



*Common Examples of Detailing*

#### **17.100.354. Required Elements.**

Single-family, two-family, multi-family, and Townhouses must include at least one of the following elements:

- A. Either:
  - 1. Side, rear, or alley-loaded garage, or detached garage; or
  - 2. Front-loading garage comprising no more than twenty (25) percent of the total width of the front façade and pushed back no less than 6 ft. from the widest front wall;
- B. A functional front porch at least one-hundred (100) square feet in size.
- C. At least three (3) elements per house from one of the McDonough, Georgia Residential Styles listed in Section 17.200.345(B).
- D. One of the following green building certifications:
  - 1. National association of Homebuilders National Green Building Programs: ANSI ICC 700-2008 National Green Building Standard, Bronze, Silver, or Gold; or
  - 2. U.S. Green Building Council Leadership in Energy and Environmental Design (LEED): Certified, Silver, Gold, or Platinum.

#### **17.100.355. Architectural Portfolio.**

The Portfolio shall contain the follow:

##### **A. Architectural Plans**

The following shall be included for each house type utilized in the proposed development:

- 1. Exterior façade drawings for all sides of a structure with basic dimensions to scale.

2. A basic floor plan with dimensions and the various spaces identified.
  3. A landscape plan for each house type utilized in the development. The landscape plan shall include that include a list of trees and shrubs utilized for each house type in the development. The planting list shall be different for each house and cannot be repeated for adjacent houses.
  4. The overall design of each house should reflect the elements of one the housing styles found in the next section, the Architectural Styles found in the Residences of McDonough, GA.
  5. Other Architectural Styles may be used if approved by the Director.
- B. *Residential Architectural Styles of McDonough, GA.*

1. Georgian.

A Georgian style house is a symmetrical, rectangular form with a central entrance and symmetrically placed windows to either side. Bold and big features such as heavy columns and pediments based on classical details are characteristic. Emphasis is placed on the entrance with a transom and decorative crown supported by pilasters or columns surrounding the door. Windows are double-hung, typically with many small panes, often nine-over-nine. The classical cornice is emphasized with a row of lentils or other decorative molding. The roof may be either tall and hipped or side-gabled.



2. Early Classical Revival.

The most prominent identifying feature of the Early Classical Revival style is a full-height entrance portico of columns supporting a triangular pediment. This robust and heavy portico is taken directly from the ancient Roman temple form. The same symmetrical, rectangular house form is still used, and the central entrance has windows symmetrically placed to either side. The cornice is usually decorated with dentils or modillions. The entrance is emphasized with a semi-circular or elliptical fanlight, sidelights, and pilasters. While the Early Classical Revival may have features similar to the Federal style, such as an elliptical fanlight or delicately

detailed interior mantels, the Early Classical Revival has a more direct association with Roman architecture and, as a result, more correct Roman details and heavier proportions. Sometimes the Roman temple form was simply added onto the front of an otherwise plain farmhouse.



### 3. Gothic Revival.

Gothic Revival houses typically have steeply pitched gabled roofs with both front- and side-facing gables. Decoratively sawn bargeboards are commonly found along the eaves. Window and door openings often have either pointed arched tops or heavily molded or pointed hoods. Porches are usually supported by slender posts with sawn woodwork forming flattened arches or brackets. Some houses have vertical board-and-batten siding. This style emphasized picturesqueness, verticality, and varied use of materials. To encourage blending with the landscape, Gothic Revival houses were usually painted with earth tones. The irregular lines and dark colors of this style contrasted with the regular lines and stark whiteness of the Greek Revival.



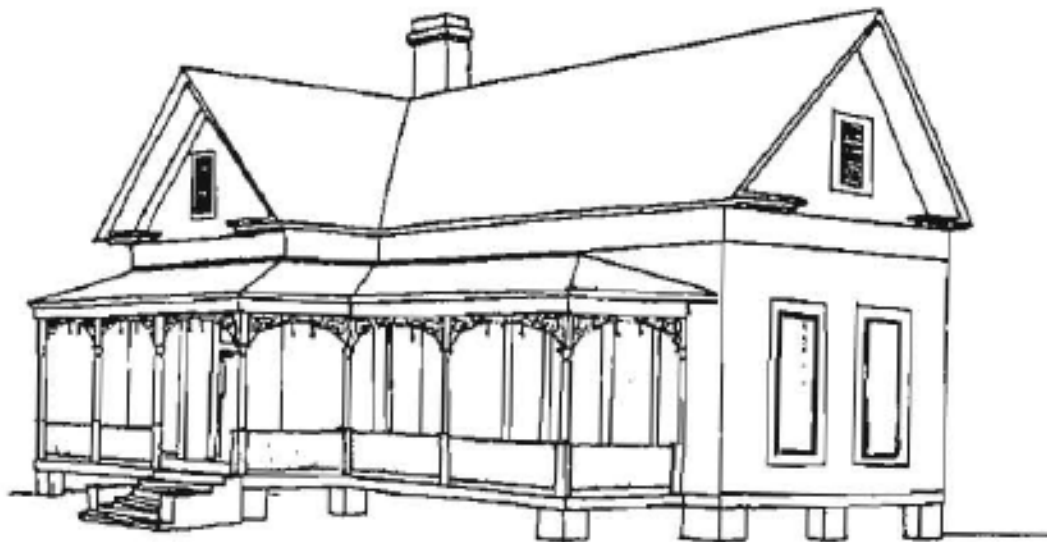
#### 4. Queen Anne.

A Queen Anne style house is asymmetrical with complex roof and wall shapes. It displays a variety of textures, materials, and detailing. Details are generally a combination of medieval and classically inspired features. The asymmetrical shape results from a floor plan that is open and flowing. The roof is often steeply pitched and hipped with both front- and side-facing, or cross, gables. Wall surfaces avoid a smooth appearance through the use of projecting bays and materials such as patterned shingles that provide texture. The porch is usually asymmetrical and often wraps around two sides of the house. It is supported with slender turned posts and often decorated with sawn brackets and spindlework friezes. Roof gables may also be decorated with sawn ornamentation or spindlework and covered with patterned shingles. There are often prominent and elaborate brick chimneys with patterned and corbeled brickwork. A round or multisided tower may be found at a corner. Some Queen Anne houses have more classically inspired details such as porch columns, Palladian windows, and cornices with lentils. Windows are generally one-over-one or may have a multi-paned border around the top sash.



5. Folk Victorian.

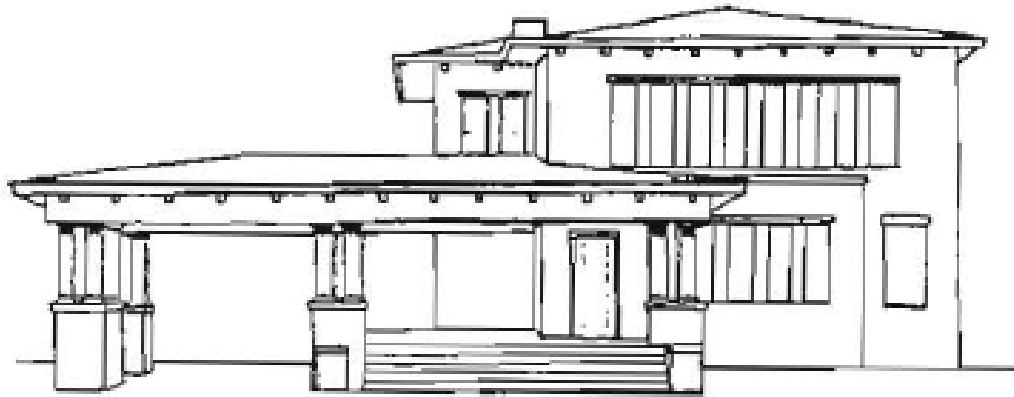
The Folk Victorian house is basically a house type such as a gabled ell, central hallway, or I-House. Decorative details are added to the porch, in the gables, and around the window and door openings. Details are usually turned or jigsawed woodwork such as brackets, spindlework, porch posts, other bric-a-brac and gingerbread. This elaborately applied ornamentation is sometimes referred to as Eastlake detailing.



6. Prairie.

A defining characteristic of the Prairie style is its emphasis on the horizontal. This developed from the idea that a building should relate to its site, specifically the flat

Midwestern prairie. A Prairie style house is usually two stories with one-story porches and wings. The roof is low-pitched and may be hipped or gabled. Eaves are widely overhanging and open with exposed rafters. Windows may be placed in rows. These features all combine to create a horizontal effect. Porches have massive masonry supports. There is emphasis on expression of structure and materials. The Prairie house as developed by Wright had an open and functional plan that revolved around a central living area and was a move toward the development of the modern house plan. Most Prairie examples in Georgia do not incorporate this interior plan but simply add exterior Prairie style features to an already established house form. Prairie features may also be combined with other stylistic influences, particularly the Craftsman style.



#### 6. Craftsman.

The Craftsman house uses a wide variety of materials both for its structure and decorative detailing. It has a low-pitched roof that is usually gabled but may also be hipped, giving a generally horizontal effect. The widely overhanging eaves are open with exposed rafters. Large gables have decorative brackets or braces at the eaves and may be covered with half-timbering. Roof dormers are sometimes found. Walls are most often wood but may also be covered with shingles or a masonry veneer of stone or brick. Porches have short square columns set on heavy masonry piers extending to the ground. Windows may have a multi-paned sash over a large one-pane sash. Craftsman houses are most often asymmetrical with a generally open and functional plan. The Craftsman style is closely associated with the bungalow house type; however, it was popular as ornamentation for many different house forms.



#### 8. English Vernacular Revival.

Characteristics of English Vernacular Revival houses are a steeply pitched gabled roof with dominant front-facing gable and decorative half-timbering in the gables. Almost all have masonry walls. Most are masonry-veneered, a recently developed technique for applying a thin layer of masonry to a wall. Some houses have patterned brickwork, while others may be completely stuccoed. Often a variety of materials are used, such as brick walls with stone trim, wood half-timbering, and stuccoed gables. Massive masonry chimneys with decorative tops are common. Windows are generally tall and narrow, grouped together, multipaned, and casements rather than double-hung. Some openings, particularly the entrance may be emphasized by a round arch. Houses of this style are generally asymmetrical.





### **Section 17.100.360. Standards for Lounges and Nightclubs (Stand Alone).**

- A. Any 'lounge' or 'nightclub' requires a Special Use Permit (SUP) per Sec. 17.90.060 Special Use Permit Standards.
- B. The SUP process requires submitting application, two (2) neighborhood meetings with residential groups and neighboring property owners within a half (1/2) mile of the proposed location, Zoning Review Board, Planning Commission and the Mayor and City Council. This process shall take a minimum of three (3) months.
- C. The Liquor License is not part of this SUP process and is handled through the City of McDonough's Finance Department, Occupational Tax Division.
- D. A site plan including buildings, marked parking areas, landscaped area and trees, driveways and adjacent rights-of way.
- E. A traffic and parking management plan (including signage).
- F. A description of the operational/business plan (including security).
- G. A pedestrian queuing plan (including barriers and signage).
- H. A maintenance plan (including regular trash/debris receptacles & clean-up).
- I. A sound and light mitigation plan.

### **Section 17.100.370. Standards for Tattoo, Piercing, and Body Art Studios.**

- A. Purpose. The purpose of this ordinance is to acknowledge and define the various forms of tattooing and body art; to establish regulations and requirements pertaining to tattooing and body art within the City of McDonough; to provide for penalties for violation of this article; to provide for an effective date; to provide for the repeal of conflicting ordinances; and for other purposes.

These body art studio and body artist rules and regulations are adopted for the purpose of establishing reasonable standards for individuals performing body art procedures and the facilities from which they are provided, with the intent to promote the health and safety of all individuals performing and receiving body art services within the city limits.

#### **B. Definitions.**

As used in this chapter, the term:

**Board of Health** means the Henry County Board of Health or its duly authorized representatives.

**Body Art** means a tattoo or piercing placed on the body of a person for aesthetic or cosmetic purposes. Body art does not include practices that are considered medical procedures by the Georgia State Medical Board, which shall not be performed in a body art studio. Body art does not include the painting of the skin with tempura or temporary, non-indelible inks, paints, or dyes. Body art does not include piercing of the outer perimeter or lobe of the ear with pre-sterilized, single-use stud and clasp ear piercing systems.

**Body Art Studio** means any facility or building on a fixed foundation wherein a body artist performs body art. Body art studio permit means the authorization granted by

the board of health to the owner to operate a body art studio. Such permit is the property of the Fayette County Board of Health.

**Body Artist** means any person who performs body art. Such term shall not include in its meaning any physician or osteopath licenses by the State of Georgia, nor shall it include any technician acting under the direct supervision of such licensed physician or osteopath, pursuant to this Code.

**Body Piercing** means puncturing or penetration of the skin or mucosa of a person with any sharp instrument and/or the insertion of jewelry or other adornment thereto in the opening.

**Cosmetic Tattooing** means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa. Cosmetic tattooing shall include permanent cosmetics, micro-pigmentation, permanent color technology, and micro-pigment implantation.

**Microblading of the Eyebrow** means a form of cosmetic tattoo artistry where ink is deposited superficially in the upper three layers of the epidermis using a handheld or machine powered tool made up of needles known as a microblade to improve or create eyebrow definition, to cover gaps of lost or missing hair, to extend the natural eyebrow pattern, or to create a full construction if the eyebrows have little to no hair.

**Owner** means the person, partnership, corporation, association, or any other form of business organization that owns, maintains, or controls a body art studio and who is responsible for the operation of the studio.

**Tattoo** means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin. Such term includes cosmetic tattooing and microblading of the eyebrow.

C. *Regulation.*

Within the city limits of McDonough, body art shall be performed only by a physician duly licensed to practice medicine within the State of Georgia. This provision shall not apply to microblading of the eyebrow as long as this service is performed by a cosmetologist duly licensed to practice cosmetology within the State of Georgia, and in accordance with the provisions herein.

D. *Operating requirements; permit required.*

1. No body artist or cosmetologist performing microblading of the eyebrow shall operate within the corporate limits of the city outside of an approved body art or cosmetology studio.
2. No body art studio or cosmetology studio offering microblading of the eyebrow shall commence operation within the corporate limits of the city or obtain an occupational tax certificate from the city without first obtaining a body art studio permit from the board of health pursuant to state law (O.C.G.A. §§ 16-5-71, 1612-5, 31-3-4, and O.C.G.A. tit. 31, chs. 5 and 40) and in accordance with the most recent rules and regulations, as adopted and amended, by the board of health.
3. No owner shall allow a body art studio or cosmetology studio offering microblading

of the eyebrow to remain in operation if the board of health suspends or revokes said permit, until said permit has been reissued.

4. No body artist shall operate within the corporate limits of the city outside of an approved body art studio.
  5. No body art studio shall commence operation within the corporate limits of the city or obtain an occupational tax certificate from the city without first obtaining a body art studio permit from the board of health pursuant to state law (O.C.G.A. §§ 16-5-71, 16-12-5, 31-3-4, and O.C.G.A. tit. 31, chs. 5 and 40) and in accordance with the most recent rules and regulations, as adopted and amended, by the board of health.
  6. No owner shall allow a body art studio to remain in operation if the board of health suspends or revokes said permit, until said permit has been reissued.
- E. *Violations.* It shall be unlawful for any person to violate this article. Any person who violates this article may be tried before the municipal court of the City of McDonough and punished to the extent provided by the City's Charter.
- F. *Enforcement.* The responsibility for the issuance and revocation of body art studio permits and overall enforcement shall be vested in with the county health department. The provisions of this chapter may also be enforced by the City's Police Department and/or Code Enforcement staff.

#### **Section 17.100.380. Self-Storage Multi-Story.**

- A. Self-Storage Multi-Story facilities shall meet the following standards:
1. Self-Storage Multi-Story/Class "A" facilities and Self-Storage Mini-Warehouses shall be separated by a radius of two (2) miles.
  2. All Self-Storage Multi-Story facilities shall be climate controlled and provide access through the interior of the building.
  3. Any fencing adjacent to a public street shall be a six (6) foot wrought iron or metal fencing with an additional center horizontal member at three (3) feet that prevents the pickets from being spread apart.
  4. A multi-story building shall be designed to mirror a class "A" commercial office space.

## ***CHAPTER 17.108. SIGN CODE.***

### **Section 17.108.010. Purposes.**

The purposes of the ordinance are set out in the preamble hereto and as follows herein.

- A. A comprehensive regulation is necessary because of the unique nature and history of the City of McDonough. In the decade preceding this ordinance there has been significant population growth in McDonough and Henry County. McDonough serves as the county seat of Henry County and Henry County is one of the fastest growing counties in the United States of America preceding the adoption date of this ordinance. McDonough has a unique historical town square and historic buildings that must be preserved for posterity.
- B. To prevent the further deterioration of the City and to ensure that it remains an attractive residential area as well as a viable commercial area it is necessary to maintain a visually satisfying environment. A plethora of signs of a certain size and nature, no matter how tasteful, can have an undesirable effect upon traffic safety and the well-being of the entire community. The City is more likely to attract commercial enterprises and permanent residents if it improves and maintains the City's appearance. The residents will ultimately benefit from enhanced retail and commercial environments and improvements in the quality of life as a result of these regulations. City-wide regulations are necessary in view of the fact that very few areas are distinctly residential or distinctly commercial, and homes including historic homes and buildings are often found in close proximity to commercial areas; it is a rational desire of the community, and most specifically of those who live therein from day to day, to plan their physical surrounding in such a way that unsightliness is minimized.
- C. Further, the City has an obligation and a right to protect the rights of adjoining landowners to adequate light and air, to promote desirable living conditions and sustain stability of neighborhoods, to protect property against blight and deprivation, and encourage the appropriate use of land, buildings and other structures throughout the City.
- D. Accordingly, in consideration of the City's rights and obligations to promote traffic safety, to preserve property values, to provide for the convenience and enjoyment of public travel, to eliminate annoyance to travelers, to attract tourists, residents and industry, to serve the health, safety and morals of the community, to advance the general prosperity of the community, and to serve the general welfare, the City hereby imposes the regulations contained in this Chapter.
- E. The Mayor and City Council find that signs provide an important medium through which individuals and entities may convey a variety of noncommercial and commercial messages. However, left completely unregulated, signs can become a threat to public safety as well as a traffic hazard. Such signs may also constitute an aesthetic nuisance and be a detriment to property values and the City's public welfare. The Mayor and City Council intend by enacting this ordinance to:
  - 1. Balance the rights of individuals and entities to convey their message through signs and the right of the public to be protected against the unrestricted proliferation of signs;

2. Further enhance the goals of the City's Comprehensive Plan;
3. Protect the health, safety, and welfare of the City;
4. Reduce traffic and pedestrian hazards;
5. Maintain the historical image of the City;
6. Protect property values by minimizing the potentially adverse effects and visual blight caused by signs.
7. Promote economic development; and
8. Ensure the fair and consistent enforcement of sign regulations.

#### **Section 17.108.020. Definitions.**

For the purposes of this Chapter, the definitions contained in the zoning ordinance shall control. In addition, the following words and phrases shall have the meanings respectively ascribed to them below, unless the context clearly indicates a contrary meaning:

***Aerial View Sign.*** Any sign which is designed primarily to be viewed from the sky from an airplane, helicopter, etc. This includes, but is not limited to, any sign horizontally affixed to a roof or attached to a roof such that the sign is not readily viewable from the surrounding ground.

***A-frame Sign.*** Any double-faced sign having a metal or wooden frame adequately braced so as to be freestanding on but not permanently attached to the ground.

***Aggregate Signable Area.*** The sum total of the signable area of any and all signs, for a given lot. Street numbers assigned by the United States Postal Service shall not be considered in calculating the aggregate signable area.

***Animated Sign.*** Any sign with action or motion with moving characters or changing colors which requires electrical energy, but not including wind actuated elements such as flags or banners. This definition includes electronic signs with lights and other elements which change copy and other characters.

***Awning.*** Any structure made of cloth or metal with a metal frame attached to a building and projecting over a thoroughfare, when the same is so erected as to permit its being raised to a position flat against the building when not in use, as opposed to a canopy.

***Awning Sign.*** Any sign attached to, affixed to, or hung from an awning.

***Banner.*** A temporary sign made of cloth, paper, plastic or similar material, but not cut into ribbons, streamers, strips or pennants.

***Billboard.*** Any off-site or off-premises board, fence, sign or structure not located on the premises of the business or entity indicated or advertised by such sign which is erected for advertising purposes or upon which any advertisement is shown, or whereupon any poster, bill, printing, painting, device or other advertising matter of any kind may be placed, stuck, tacked, posted, printed, painted, pasted or fastened. This definition shall not be held to include any board sign or surface used to display official notices issued by any court or public officer or posted by any public officer in the performance of a public duty.

***Buildable Area of Lot.*** That area of lot within the setback lines as defined by the zoning

ordinance generally.

**Building Frontage.** The linear feet of the exterior wall of a building that faces any road or street that provides a means of direct ingress and egress to the Lot.

**Bulletin Board.** Any sign which primarily displays the name of an organization and the upcoming events of that organization.

**Business Identification Sign.** Any sign which directs attention to a business, profession, product, service, activity or entertainment conducted, sold or offered on the premises upon which the sign is located.

**Canopy.** Any structure made of cloth or metal with a metal frame attached to a building and erected so as to permanently project over a thoroughfare, as opposed to an awning.

**Canopy Sign.** Any sign attached to, affixed to, or hung from a canopy.

**Changeable Copy Panel.** A sign or sign device consisting of or incorporating a panel designed specifically to allow the frequent changing of the copy thereon.

**Decision Date.** The date upon which the Director of community development makes a final decision on the approval or denial of a sign permit application.

**Digital Changeable Copy.** Changeable copy on a sign with a display or message composed of a series of lights that may be changed through electronic means.

**Directional Sign.** Any sign utilized for the purpose of indicating the location or direction of any object, place or area. For example, such signs include, but are not limited to, entrance and exit signs, no parking signs, drive through signs, restroom signs, etc.

**Directly Illuminated Sign.** Any sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such sign including, but not limited to exposed lamp signs.

**Double-faced sign.** Any sign which has two display surfaces backed against each other or against the same background, one face of which is designed to be seen from one direction and the other from the opposite direction.

**Entrance Sign.** Any ground sign placed at the intersection of a public street and a private entryway into an apartment complex, condominium complex, office complex, industrial complex or other building with multiple residential dwelling units or commercial units.

**Erect.** To build, paint, construct, attach, hang, place, suspend, assemble or affix.

**Externally Illuminated Signs.** Any sign illuminated by an external light source directed primarily toward such sign.

**Flashing sign.** Any sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits sudden or marked changes in lighting effects.

**Ground Sign.** A sign which is supported by two or more uprights or braces on the ground.

**Hand Held Signs.** Any sign larger than six (6) inches by six (6) inches carried by a human appendage or prosthesis including but not limited to picket signs, shields or sandwich boards.

**Internally Illuminated Signs.** Any sign which has characters, letters, figures, designs or

outlines illuminated by electric lights or luminous tubes located within the interior parts of the sign.

**Interstate 75 Corridor.** Any portion of a lot zoned for non-residential use that is located within 100 feet of the right-of-way of Interstate 75, including the on-ramp and off-ramp rights-of-way.

**Marquee.** Any roofed structure attached to and supported by a building and projecting over public or private sidewalks or right-of-way.

**Marquee sign.** Any sign painted on, attached to, or hung from a marquee.

**Median.** A paved or planted strip dividing any public or private right-of-way, road or highway into lanes parallel to the direction of travel.

**Menu Board.** A variable-message sign that allows a retailer to list products and prices.

**Mobile Sign.** A portable sign mounted on a vehicle or trailer.

**Monument Sign.** A sign securely affixed to a substantial support structure of columns, uprights or braces which is permanently attached to the ground and wholly independent of any building for support, the total height of which is less than ten (10) feet.

**Non-Combustible Material.** Any material which will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

**Non-Commercial message.** Any sign, wording, logo or other visual representation that does not directly or indirectly constitute or include a commercial message, but instead conveys an opinion, idea or concept, or similar noncommercial speech.

**Non-Conforming Sign.** Any lawfully erected sign which, on the effective date of the ordinance from which this Section derives, fails to comply with the requirements of this chapter.

**Off-Premises Sign.** Any sign not located on the same premises as the person, business, commodity, service, entertainment or any other thing which it advertises or to which it relates, including any structure designed primarily for the display of off-site signs or advertising structures.

**Outdoor Advertising.** Advertising on any board, fence or structure or the placing thereon of any poster, bill, printing, painting, device or any advertising matter of any kind, and the pasting, posting, painting, printing, nailing or tacking or otherwise fastening of any handbill, card, banner, sign, poster, advertising or notice of any kind upon any property or place.

**Panel, Sign** is the display surface of a sign delineated by a frame or cabinet.

**Person.** Any person, firm, partnership, association, corporation, company, or organization of any kind.

**Pole Sign.** Any sign erected on one or more uprights supported from the ground, the height of which is greater than eight feet, and which is not a part of any building or structure, other than a structure erected solely for the purpose of supporting the sign. The overall total height of a pole sign shall not exceed twenty (20) feet above ground level. A pole sign may include an accessory sign or change-able copy panel, the areas of which shall

be included in the total area of the pole sign.

**Political Sign.** A sign informing the public of an election issue, political issue, candidate for public office, or similar noncommercial campaign.

**Portable Sign.** Any sign which is designed to be transported by any means, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is attached temporarily or permanently to the ground, or any movable sign structure designed for transport, which is placed, parked or maintained at a particular location for the express purpose of promotion or conveying an advertising message. It is typical of such signs that the space provided for advertising matter consists of a changeable copy panel.

**Price Pane.** Any sign or panel incorporated into a sign or sign device and having changeable numerals used for the purpose of displaying variable price information.

**Primary Facade.** If the building faces more than one street, the exterior wall of the building which is most nearly parallel to widest street to which the building faces.

**Projecting Sign.** Any sign mounted on the face or vertical surface of a building or structure, the display surfaces of which are not parallel to the supporting surfaces.

**Real Estate Sign, Commercial.** A temporary ground sign advertising the sale, rental or lease of the property on which the sign is located with a maximum sign area of thirty-two (32) square feet.

**Real Estate Sign, Residential.** Any temporary sign advertising the sale, rental or lease of the residential property on which the sign is located with a maximum sign area of two and a quarter (2.25) square feet

**Roof Line.** The highest continuous horizontal line of a roof. On a sloping roof, the roof line is the principal ridge line, or the highest line common to one (1) or more principal slopes of roof. On a flat roof, the roof line is the highest continuous line of the roof or parapet, whichever is the higher.

**Roof Sign.** A sign which is attached to a building or structure and is displayed above the lowest horizontal line of a building's roof.

**Sandwich Board/Sidewalk Sign.** A sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame, which is typically in the shape of an A.

**Secondary Facade.** Any exterior wall of a building which is most nearly parallel to an adjoining street that is not the Primary Facade.

**Sign.** Every device, item, product, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter, which is used or intended to be used to attract attention or convey information when the same is placed in view of the general public. For the purpose of determining number of signs, a single display surface or a single display device containing elements organized, related, and composed to form a unit shall be considered to be one sign. Where matters are displayed in a random manner without organized relationship to elements, or where there is reasonable doubt as to the relationship of elements, each element shall be considered to be a single separate sign.



**Sign Area.** The total area upon which a message is displayed on any sign. For double-face signs, the side with the largest Signable Area shall be used in computing Signable Area. If the two (2) faces of a double-face sign are of unequal area, the Signable Area shall be the area of the larger face. For wall signs consisting entirely of products shaped in the form of letters or other figures attached directly to a wall or roof, the Signable Area shall consist of the net geometric area measured by the smallest possible single square or rectangle enclosing the display surface of the sign including the outer extremities of all letters, characters and delineations.

**Stake Sign.** Any Temporary sign supported by uprights which are placed into the ground, and not supported by or suspended from any building with Signable Area not greater than three (3) square feet.

**Store Front.** The Primary Facade of a single, undivided unit containing an area larger than seven hundred and fifty (750) square feet located within a Planned Shopping Center or Planned Business Park.

**Structural Trim.** The molding, battens, cappings, nailing strips, latticing, and platforms which are attached to a sign structure, but which do not contribute to the conveying of a message.

**Subdivision Sign.** Any sign placed at the intersection of two roads where one of the roads is the main thoroughfare into and out of a commercial or residential subdivision.

**Submission Date.** The date stamped on a sign application indicating the date the application was actually received in the Community Development Department.

**Swinging Sign.** Any sign which is mounted such that the sign may freely move back and forth.

**Temporary Sign.** Any sign or device which is not permanently attached to the ground or other permanent structure, which is designed to be mobile or is designed to remain in place for a limited time. This includes, but is not limited to, signs which are designed to be transported regularly from one location to another, signs which are designed with wheels, regardless of whether the wheels remain attached to the or signs tethered to an existing structure. These signs include, but are not limited to, (i) sky lights, (ii) balloons, (iii) streamers, (iv) flag strings, (v) inflatable displays, and (vi) mechanical or animated figures.

**Wall Sign.** Any sign which is attached parallel to or painted on an exterior building wall.

**Window Sign.** A sign painted on, applied to or hung on the inside of a window.

**Zoning District.** The use classification of parcels of land as defined under the zoning ordinance generally.

## **Section 17.108.030. Permits.**

- A. *Application Requirements.* All applications for sign permits must be complete and contain all required information. If the Community Development Director or designated representative shall determine that the application does not contain all required information as set forth in this Article, or if such information is not sufficient to determine whether the permit should be issued or denied, or if such information is inaccurate or untrue the application shall be denied.
- B. *Permit Required.* It shall be unlawful for any person to erect, repair, alter, relocate, or maintain any sign as defined in this article without first obtaining a permit from the Community Development Department in the manner set forth in this article or otherwise complying with the terms herein.
- C. *Permit Application.* Application for permits to erect signs shall be made upon forms provided by the Community Development Department, and shall contain or have attached thereto the following information:
  - 1. Name, address, and telephone number of the applicant;
  - 2. Address of building, structure, or lot to where the sign is to be attached or erected;
  - 3. Position of the sign in relation to nearby buildings or structures, property lines and other signs located on the Lot showing compliance with zoning and other code setback lines;
  - 4. Accurately scaled color drawings of the plans, contents, specifications, and method of construction and attachment to the building or the ground for the sign as well as a scaled drawing of the site showing drives, structures, and any other limiting site features;
  - 5. Name of person, firm, corporation, or association erecting the sign (i.e. contractor or builder);
  - 6. Written consent of the owner of the building or Lot upon which the sign is to be erected;
  - 7. A written list describing all other signs located on the lot and building indicating the sign type, size and placement, including all tenant spaces; and
  - 8. Such other information as the Director shall require to show full compliance with this and all other ordinances of the City.
- D. *Approval of Community Development Director.* Approval of the Community Development Director is required for all signs that require a permit. Such officer shall examine the plans and specifications to determine if the same complies with the building code of the City except a building permit is not required and shall then mark his approval or disapproval thereon.
- E. *Submission of Sign Permit Applications.*
  - 1. Sign permit applications must be delivered to the Community Development Department in person on the 3<sup>rd</sup> Floor of City Hall, by US mail, or email.

Community Development Department  
City of McDonough  
136 Keys Ferry Street  
McDonough, GA 30253

2. All permit applications must be stamped by Community Development Department personnel indicating the Submission date.
  3. Permit applications that pertain to Lots located in the Downtown Business District shall be examined by the Community Development Department and sent to Main Street McDonough for their recommendation.
- F. *Permit fees.* Each application for a sign permit must be accompanied by a payment for the permit fee. The fee for sign permits shall be established by the Mayor and City Council from time to time.
1. Schedule. Permit fees shall be payable with the application for the sign permit. Sign permit fees shall be paid according to the schedule as set forth in the schedule of fees and charges.
  2. Double Fee Penalty. If a sign is erected or painted before the issuance of a sign permit, a penalty equal to double the sign permit fee shall be charged.
- G. *Issuance and Denial of Permit.*
1. Provided that the application is complete, all permit fees have been paid, and the proposed sign and the lot upon which the sign is to be placed are within all the requirements of this Chapter and all other ordinances and laws of the City, the Community Development Director shall then issue the permit; and
  2. In the event the Community Development Director determines or learns at any time the applicant has not properly completed the application for the proposed sign, he shall promptly notify the applicant of such fact and shall automatically deny the application.
  3. In the event the Community Development Director determines that all requirements for approval have not been met, the Director shall then deny the permit.
    - a. All permit applications shall either be issued or denied within fifteen (15) days of the Submission date. If the application is denied because it does not contain the required information or the information is inaccurate or false, a new application must be submitted with all of the required information and such application shall be assigned a new Submission date. Upon the expiration of the thirty (30) day period without a decision being made on the application, the applicant shall be permitted to erect and maintain the sign under this statutory provision unless and until such time as the Community Development Director notifies the applicant of a denial of the application and states the reason(s) for the denial. No person erecting a sign under this provision shall acquire any vested rights to continued maintenance of such signs, and if the Community Development Director later denies the application, the sign must be brought into compliance with this article.
    - b. Upon making a final decision, the Community Development Director must stamp each application with a Decision date.

- G. *Time Period.* If the work authorized under a permit has not been completed to the satisfaction of the Community Development Director using common industry standards within six (6) months after the date of issuance, the permit shall become null and void. A ninety (90) day extension can be granted by the Director if the Applicant request an extension before the original six (6) month time period expires.
- H. *Altering Permit.* Displaying a permit that has been tampered with, altered, or mutilated, or displaying a sign without a permit shall be a misdemeanor offense punishable in Municipal Court. The penalties for such a violation are provided in section 17.108.170.
- I. *Appeals:* Appeals of the Community Development Directors decision may be made to the Board of Zoning Appeals under the procedure set forth in 17.92.032 Appeals from Decisions of the Director.

#### **Section 17.108.040. General Provisions.**

- A. *Defacing of Official Signs and Notices.* No person shall injure, deface, obliterate, remove, take down, disturb or in any other manner interfere with any signboard containing the name of any street or public place, or any bulletin or reader board, or sign or notice erected, posted or placed, bearing the name of the City or any officer thereof.
- B. *Business License Required.* No person shall engage in or carry on the business or occupation of billposting, advertising, sign painting, outdoor advertising, installing or maintaining signs unless said business is in compliance with the City's Business License Ordinance.
- C. *Fastening Signs, Notices and Posters on Public Property.*
  - 1. Generally: It shall be unlawful for any person, except a public officer or employee in the performance of a public duty, to paste, print, nail, stake, tack or otherwise fasten any card, banner, handbill, sign, poster, advertisement or notice of any kind, or cause the same to be done, on any curbstone, lamppost, pole, hydrant, bridge, tree or area upon any public or publicly maintained street, sidewalk, right-of-way or property within the City, except as may be required by the provisions of this Code, other ordinances of the City or the laws of the state or the United States or as may be otherwise authorized by this Section.
  - 2. Consent of City Administrator Required for City Property. It shall be unlawful for any person, except a public officer or employee in the performance of a public duty, to paste, post, paint, print, nail, tack or otherwise fasten any card, banner, handbill, sign, poster, advertisement or notice of any kind, or cause the same to be done, on any City property. Any advertisement prohibited by this Section or Section 17.108.090 may be taken down, moved or destroyed by the City authorities.
  - 3. Consent of Owner, Holder, Lessee or Agent Required for Private Property. It shall be unlawful for any person, except a public officer or employee in the performance of a public duty or a private person giving legal notice, to paste, post, paint, print, nail, tack or otherwise fasten any card, banner, handbill, sign, poster, advertisement or notice of any kind, or cause the same to be done, upon any property without the written consent of the owner, holder, lessee, agent or trustee thereof. Any advertisement prohibited by this Section may be taken down, moved or destroyed by the City authorities.

- D. *Scattering Paste, Glue, Waste Matter, Paint or Other Materials on Public or Private Property.* No person shall scatter, daub or leave any paint, paste, glue or other substance used for painting or affixing advertising matter upon any public street or sidewalk, or scatter or throw or permit to be scattered or thrown any waste matter, paper, cloth or materials of whatsoever kind removed from signs or other advertising matter on any public street or private property.
- E. *Non-Commercial Messages.* Any sign allowed herein may contain, in lieu of any other message or copy, any lawful noncommercial message that does not direct attention to a business operated for profit, or to a product, commodity or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area and other requirements of this Section.

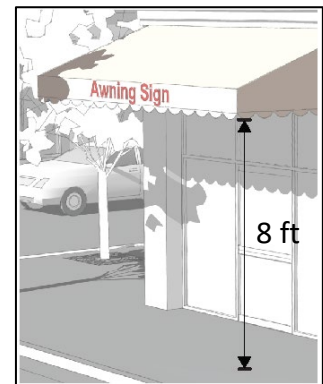
## **Section 17.108.050. Sign Standards.**

### **A. *Awning, Canopy, Hanging, and Marquee Signs.***

Awning, canopy, hanging, and marquee signs shall be securely fastened to the building surface, shall be no less than 8 feet above the ground when erected over pedestrian walkways and no less than 14 feet above areas of vehicle access at the lowest extremity of the sign.

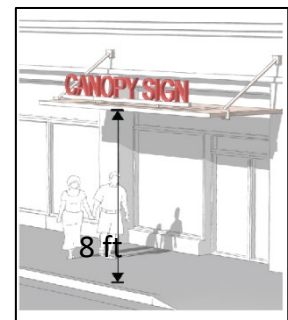
#### **1. Awning Signs.**

- a. Awning Signs must be painted or installed directly on the valances of the awning.
- b. Awning signs shall not have lettering or graphics exceeding ten (10) inches in height.
- c. No awning sign may be internally illuminated.
- d. Only external illumination is allowed on awning signs.
- e. The Signable area of any Awning sign shall not exceed ten percent (10%) of the surface area of the awning.



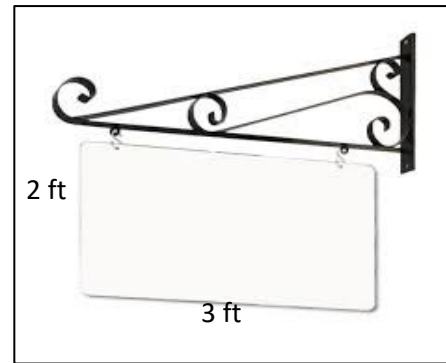
#### **2. Canopy Signs.**

- a. Canopy Signs must be installed directly on the top of the Canopy.
- b. Internal and External Illumination are allowed with Canopy Signs
- c. The Signable Area of any Canopy Sign shall be one (1) square foot for every linear foot of Canopy width/frontage.
- d. A Canopy shall be individual, freestanding letters or on a sign panel equal to the square footage of the Signable Area of the Canopy Sign.



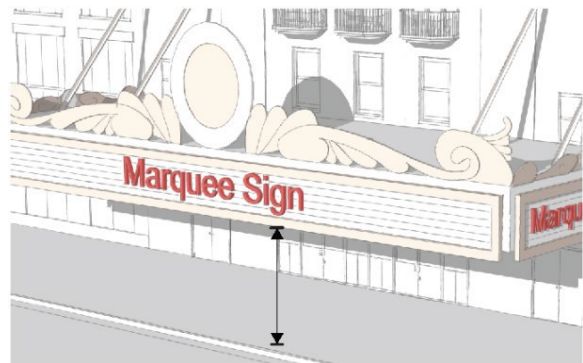
#### **I. Hanging Signs.**

- a. Hanging signs may not exceed six (6) square feet in Signable Area.
- b. Hanging signs may be two-sided.
- c. Hanging signs shall be externally illuminated only, no exception.
- d. If a Hanging sign is attached to a bracket, it may project from the face of the building no more than four (4) feet.
- e. A Hanging sign hung from an awning, canopy, overhang, balcony, arcade, or porch, there must be eight (8) feet of clearance between the bottom of the sign and the sidewalk.



#### 4. Marquee Signs.

- a. Signs may be placed on, attached to, or constructed in a marquee.
- b. The Sign area permitted shall not exceed two hundred (200) square feet without a variance.
- c. Marquee Signs shall be permitted around McDonough Square and within one (1) block of the Square in any direction.
- d. Outside the McDonough Square and surrounding area, Marquee Signs shall require a Conditional Use permit.



#### B. *Directional, Ground, Monument, and Pole Signs.*

Directional, Ground, Monument, and Pole signs shall be securely affixed to a substantial support structure which is permanently and securely attached to the ground and wholly independent of any building for support. Any sign over four (4) feet in height require drawings created by a licensed Georgia Structural Engineer.

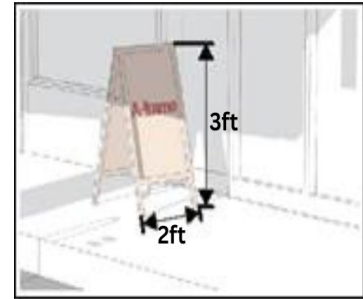
##### 1. Directional Signs.

- a. Each Directional sign shall have a maximum area of three (3) square feet.
- b. Directional signs may be either attached or detached. However, detached directional signs shall have a maximum height of three (3) feet.
- c. Directional signs may be excluded from the sign area calculation for both permitted attached and detached signs.
- d. The number of allowable Directional signs is based on the number of entrances/exits a parking area. Two (2) Directional signs are allowed for each entrance/exit location.



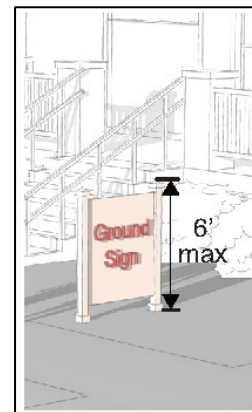
## 2. A-Frame Signs.

- a. A-Frame signs shall not exceed six (6) square feet of sign area per side. (2 sided only)
- b. Materials. A-Frame signs shall be constructed of metal and wood with a signable area not to exceed three (3) feet in height and two (2) feet in width.
- c. Only one (1) A-Frame sign is allowed per business.
- d. Wood and metal. Plastic, vinyl and other materials shall be prohibited.
- e. An A-Frame sign must be located in front of the business associated with the A-Frame sign, and it shall be placed within an eight (8) foot maximum from the business' front entry. Any A-Frame sign beyond eight (8) feet shall be subject to fines or removal by Code Enforcement.
- f. There must be five (5) feet of clearance between the A-Frame sign and the business associated with the A-Frame sign. (ADA requirement)
- g. A-Frame signs shall be removed and placed in storage outside of business hours.
- h. Any A-Frame sign that does not meet all of these requirements will be subject to fines or removal by Code Enforcement.



## 3. Ground Signs.

- a. The overall height of a Ground Sign shall not exceed six (6) feet in height.
- b. There shall be 12 inches or one (1) foot of clearance between the bottom of the sign panel and the surrounding grade.
- c. The sign area of a Ground sign shall not exceed twenty (20) square feet.
- d. Landscaping. Section 17.120.020. Landscaping Standards shall apply.

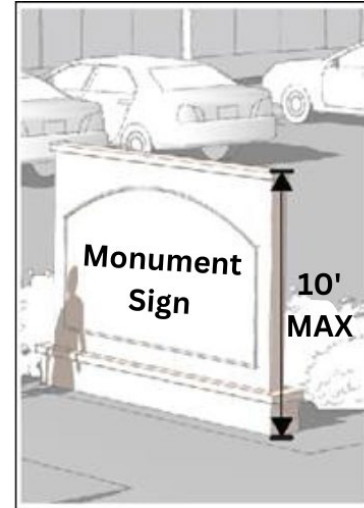


## 3. Monument Signs.

- a. Number. One (1) monument sign shall be permitted per principal use; however, the maximum number of monument signs per development site shall be two (2) monument signs.

b. Sign Area.

- 1) Collector or local street: The Maximum Area of a Monument Sign shall not exceed one (1) square foot per linear foot of street frontage or fifty (50) square feet, whichever is less.
- 2) Arterial or higher street: The Maximum Area of a Monument Sign shall not exceed one (1) square foot per linear foot of street frontage or one-hundred (100) square feet per sign face, whichever is less.
- 3) Corner Developments are allowed one (1) monument sign per street frontage. One (1) supplemental monument sign is allowed for each additional two-hundred and fifty (250) feet of linear road frontage.



c. Sign Height.

- 1) Collector or local street: Six (6) feet.
- 2) Major Arterial or higher: Ten (10) feet.

- d. Setback. Signs shall have a minimum setback of ten (10) feet from all lot lines that are common to a public right-of-way, or an abutting lot not associated with the non-residential use.

- e. Landscaping. Section 17.120.020. Landscaping Standards shall apply.

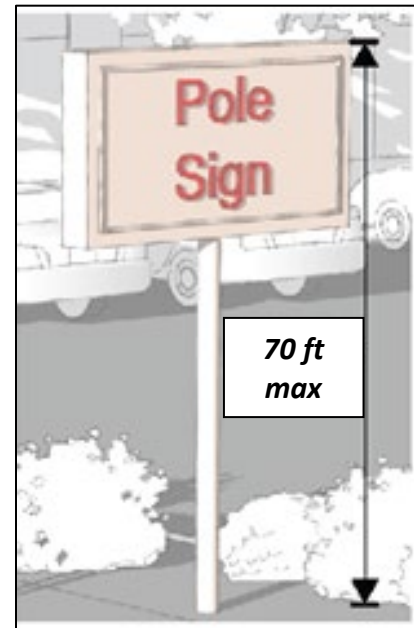
- f. Electronic Variable Message Signs or Internal Illumination. No electronic variable message signs or internal illumination shall be permitted unless the development site fronts on an Arterial. The EVM portion of the sign shall comprise no more than fifty (50) percent of the detached sign area or thirty-two (32) square feet, whichever is less. EVM signs must meet applicable criteria set forth in Section 17.108.050(F), except that the EVM portion of the sign shall be prohibited from changing messages/images between 10 pm and 6 am.

4. Pole/Pylon Sign.

- a. Pole/Pylon Signs are only allowed in the Interstate 75 Corridor with no variances allowed and are limited to one (1) per property abutting Interstate 75.
- b. The sign shall be constructed on a monopole structure.
- c. The outside measurement of all new signs shall not exceed a total of one-hundred (100) square feet with or without trim for all pole signs.



- d. No more than two (2) sign faces shall be permitted on a single sign facing in one direction. No more than four (4) faces shall be allowed on any single sign pole;
- e. Sign faces shall not be configured in a triangular shape or quadrangular shape;
- f. The total height of the sign may not exceed seventy (70) feet above the level of the surface of the pavement of the nearest lane of the main traveled way or seventy (70) feet from the ground at the base of the structure to the tallest part of the structure, whichever is greater. Upon the effective date of this section, no new permit applications shall be accepted for signs with the total height of the sign exceeding seventy (70) feet above the level of the surface of the pavement of the nearest lane of the main traveled way or seventy (70) feet from the ground at the base of the structure to the tallest part of the structure, whichever is greater;
- g. All such signs permitted pursuant to this section shall be no closer than ten (10) feet to the property line or right-of-way;
- h. No portion of any such sign shall overhang any property line or right-of-way.



C. *Wall Signs.*

- 1. A Wall Sign is affixed to the wall or painted directly on the building.
- 2. A Wall Sign cannot extend more than twelve (12) inches from the wall it is attached.
- 3. No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.
- 4. Sign Area. The max area of a wall sign is two (2) square foot per linear foot of Building Frontage to a maximum of two-hundred (200) square feet, whichever is less.
- 5. Additional wall signs are allowed on each façade that faces a public right-of-way. The sign area of secondary signs is half (1/2) the sign area of the wall sign on the primary frontage.



D. *Menu boards.*

Menu boards servicing drive-up (drive-through) restaurants shall be permitted provided that:

- 1. Number. Only one (1) menu board shall be permitted per drive-through lane.

2. Landscaping Required. The menu board shall be located in association with the drive-through service lanes and Section 17.120.020. Landscaping Standards shall apply.
3. Visibility From Street Right-Of-Way. The menu board shall not be visible from the street right-of-way from which the primary access to the premises is obtained.

4. Setbacks.

- a. The menu board shall not be located within the first twenty (20) feet of the front of the development site.
- b. The menu board shall be located a minimum of twenty (20) feet from any lot line abutting residential property.



5. Sign Area. The menu board shall have a maximum area of forty-eight (48) square feet and are independent of all other signage area calculations for the development site.
6. Sign Height. The menu board shall have a maximum height of eight (8) feet.
6. Sound System. The sound system associated with a menu board shall be oriented and adjusted in such a way that resulting noise does not intrude into surrounding development in compliance with the applicable provisions of concerning noise in this Code.

E. *Lighting Requirements.*

1. No sign shall give off light which glares, blinds, or has any other such adverse effect on vehicular traffic. 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. No illuminated signs shall be constructed or maintained within 75 feet of any single-family dwelling. Signs with flashing, intermittent or animated illumination or effect are prohibited. Signs which simulate official traffic control, warning or public service signs are prohibited.
2. Internal illumination. The illumination of Internally Illuminated signs shall not exceed twenty (20) foot candles of incandescent light measured at a distance of ten (10) feet from such structure.
3. External illumination. Externally Illuminated signs shall be lighted so that no lights are positioned in such a manner that light glares or shines into the eyes of motorists or pedestrians so as to create a hazardous or dangerous condition. The fixtures have to meet all requirements of Section 17.120.070. Outdoor Lighting Standards.

F. *Electronic Variable Message Boards (EVM).*

Electronic Variable Message Boards (EVM) are also known by other names, including:

- **Changeable Message Sign (CMS):** Can display one or more alternative messages, such as lane-use or blank-out signs
  - **Dynamic Message Sign (DMS):** A term developed to support both CMS and VMS with a common data set
  - **Electronic Message Sign (EMS):** Another term for a variable message sign
1. *Operational standards and brightness.* The following shall apply to all EVM signs.
    - a. The copy on an EVM sign shall not change more than once in an eight second period unless otherwise allowed by law or except as necessary on a sign for public health and safety, including traffic control.
    - b. EVM signs shall only operate between the hours of 7:00 a.m. and 9:00 p.m. EVM signs may be permitted to operate outside these hours only while the establishment it serves is open to the public.
    - c. Installation of a new EVM sign or replacement of an existing sign with an EVM sign shall require permits pursuant to the LDC.
    - d. EVM signs must meet the following requirements:
      - 1) Display shall be limited to static messages.
      - 2) Static display time for each message is a minimum of eight seconds.
      - 3) The amount of time to completely change from one message to the next is instantaneous.
      - 4) The change of message shall occur simultaneously for the entire sign face.
      - 5) The sign shall contain a default design that will hold the face of the sign at one position if a malfunction occurs.
      - 6) No flashing lights, traveling messages, animation, transitional effects, or other movements are allowed on an EVM sign.
      - 7) Ambient light sensors shall be installed and shall automatically adjust the light intensity of the sign based on ambient light conditions.
      - 8) The maximum light intensity shall not exceed 0.3-foot candles above ambient light levels.
      - 9) Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face, at a distance of 100 feet from the sign area being measured.
  9. *Location and placement.*
    - a. The following shall apply to the new placement or installation of an EVM sign.
    - b. Only one electronic variable message (EVM) sign is allowed per single-occupancy development or multiple-occupancy complex and must be integrated and designed as a component of a monument or marquee sign in accordance.

- c. EVM signs are not allowed for development with a street frontage less than 50 feet or for outparcels within a multiple-occupancy complex.
- d. The area of the EVM portion of the sign shall not exceed 50 percent of the total sign copy area and in no case shall exceed 32 square feet.
- e. An EVM sign may not be installed where a development is already using a portable sign or other temporary signs.

10. *Enforcement.*

- a. Violations of these regulations will be subject to code enforcement action.
- b. Any EVM sign which is found in violation of these regulations three or more times may only be operated from ½ hour after sunrise to ½ hour before sunset, regardless of hours of operation.

G. *Construction and Maintenance.*

All signs for which a permit is required shall be constructed and maintained in conformance with City building and electrical codes. Such signs, together with their supports, braces, guys, anchors and similar parts, shall be maintained and protected as necessary to maintain a clean and safe appearance and condition. The Director reserves the right to remove any sign after due notice which shows gross neglect, becomes dilapidated or is not well maintained.

J. *Fire Safety.*

No sign shall obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of the roof to another part thereof, nor shall any sign be attached in any manner to a fire escape.

K. *Vehicular Traffic.*

No sign shall interfere with any roadway visibility or obstruct or otherwise interfere with the safe and orderly movement of vehicular traffic.

L. *Natural Features.*

No sign shall be erected, painted or drawn on any tree, rock or similar natural feature.

M. *Ownership.*

No sign shall be located on any building, fence, or other property belonging to another person.

N. *Prohibited Activities.*

No sign shall advertise an activity, service, product or other item prohibited by the laws and regulations of the United States or the State or by the ordinances and regulations of the City.

O. *Sound.*

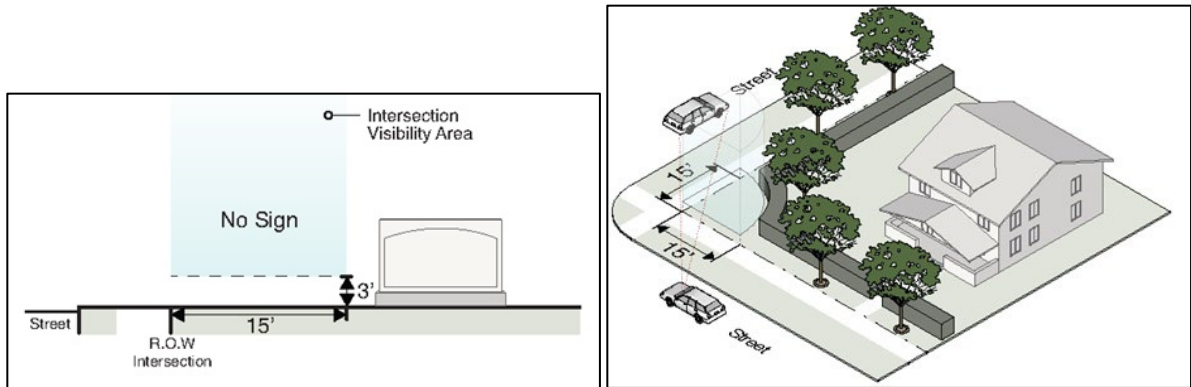
No sign shall emit or utilize in any manner any sound capable of being detected on any public roadway, public right-of-way or public sidewalk by a person of normal hearing.

**P. *Public Roads, Rights-of-Way and Utility Poles.***

No sign, sign structure or advertising shall be located on or within five (5) feet of any public roadway or public right-of-way, or shall any sign, sign structure or advertising device be located within ten (10) feet of any utility pole, except signs for public governmental purposes specifically authorized by local, state or federal law.

**Q. *Street Intersections.***

No sign or sign structure above a height of three (3) feet shall be located within fifteen (15) feet of the intersection of the right-of-way lines extended of two (2) streets, or of street intersection with a railroad right-of-way.



**Section 17.108.060. Permit Required.**

A permit shall be required for all permanent and temporary signs other than those specifically exempted from obtaining a permit by this Section.

**Section 17.108.070. Inspection.**

The Director may inspect every sign installed under the provisions of this Section to determine that each sign meets the requirements set forth in this Section.

**Section 17.108.080. Signs Exempt From Permits.**

The following signs are exempt from the permit requirements of this Section:

- A. Official traffic or warning signs;
- B. Changing of copy of bulletin or reader board, poster board, display casement, marquee or changeable copy sign and the moving or relocating of embellishments that does not increase the area of embellishments;
- C. Decorative flags or buntings;
- D. Symbolic flag and award flag of institution or business, one for each business or one for each 50 feet of street frontage;
- E. Construction signs not exceeding 32 square feet in area;
- F. Residential real estate signs not exceeding 24 square feet in area;
- G. Political signs (see Sec. 17.108.);

- H. Directional signs not exceeding three (3) square feet in area;
- I. Residential Signs (see Sec. 17.108.);
- J. Signs of a governmental body, governmental agency or public authority, including traffic signs, traffic signals, traffic regulatory devices and warnings, official flags, emblems, official instruments, official public notices, and similar governmental signs or devices;

#### **Section 17.108.090. Prohibited Signs and Sign Devices.**

The following signs and sign devices are prohibited under the provisions of this Section:

- A. Signs that display intermittent lights resembling flashing lights associated with danger.
- B. Signs using the word "stop" or "danger," or imitation of an official traffic control, warning or public service sign.
- C. Signs which provide background of colored lights blending with traffic signals which might confuse a motorist when viewed from normal approach distance of 25 feet to 300 feet.
- D. Any sign attached or applied to benches, trash receptacles or any other unapproved supporting structure.
- E. Pennants, streamers, ribbons, whirligigs, spinning devices and similar-type devices.
- F. Signs, other than temporary signs, which are not securely affixed to the ground or securely anchored so as to be immobile or otherwise affixed in a permanent manner to an approved supporting structure.
- G. Signs attached to or placed on a vehicle that is parked on private property, except service vehicles parked temporarily parked there.
- H. Roof signs,
- I. Aerial Signs,
- J. Flashing signs.
- K. Marquee signs except for bona fide theaters.
- L. Rotating signs.
- M. Portable signs.
- N. Projecting signs.
- O. Commercial product signs on residentially zoned property.
- P. Off-premises signs.
- Q. Signs advertising alcoholic beverages.
- R. Temporary signs unless permitted by this Section.
- S. Signs wrapped around bollards.

#### **Section 17.108.100. Non-Conforming Signs.**

- A. Signs which on the effective date of the ordinance from which this Section derives were legally erected and maintained under previous ordinances and regulations, or which

become non-conforming with respect to the requirements of this Section, may be continued so long as the size of the sign is not increased beyond that existing as of the effective date of the ordinance from which this Section derives, or any change thereto is made in conformance with this Section. However, the display face of a non-conforming roof sign located on an owner-occupied building may be replaced or repainted with a new display face so long as the total area of the sign is not increased.

- B. A non-conforming sign shall not be replaced by another sign except one which complies with the requirements of this Section.
- C. Minor repair and maintenance of non-conforming signs such as repainting, electrical repairs, and neon tubing shall be permitted. However, no structural repairs or changes in the size or shape of a non-conforming sign shall be permitted except to make the sign comply with the requirements of this Section.
- D. Illegally installed or non-permitted non-conforming signs, non-conforming signs for which no permit was issued, and all non-conforming temporary signs shall be removed or made to conform with the requirements of this Section within 90 days of the effective date of the ordinance from which this Section derives.

#### **Section 17.108.110. Vacant Buildings, Premises or Property.**

- A. Any business identification signs advertising a service or commodity associated with a vacated building premises or closed business shall be removed or resurfaced by the owner or tenant not later than 60 days from time the premises are vacated or the business closes.
- B. Real estate signs on a vacant or undeveloped property in a residential or professional office zoning district shall be limited to one (1) residential real estate sign not exceeding two and one quarter (2.25) square feet in area. Real estate signs on a vacant or undeveloped property in a commercial zoning district shall be limited to 1 sign not exceeding 32 square feet in area.



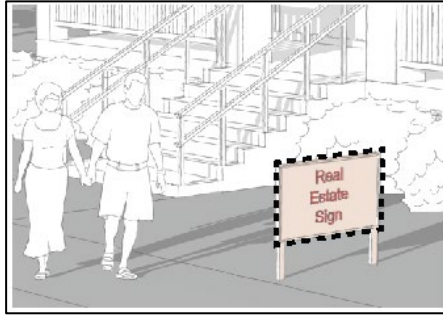
#### **Section 17.108.120. Permitted Signs.**

- A. *Generally.*
  - 1. In addition to general regulations and restrictions applying to all signs, no signs shall be permitted except in compliance with the following specific regulations and restrictions. Unless defined in this Section, the meaning of such terms as "single-family dwelling," "high density, single-family dwelling," "street frontage," and so forth shall be as defined in this Code.
- B. *Single-Family Dwellings, Two-Family Dwellings, and Townhouse.*

Signs for single-family dwellings, two-family dwellings, or townhouse shall be limited to 1 residential real estate sign not exceeding three (3) square feet for each single-family, two-family, or townhouse dwelling or lot. Such signs shall be placed no closer than 10 feet to the street right-of-way except that when a residential structure is located within 10 feet of the street right-of-way, the sign shall be located as close as possible to the residential structure. Residential real estate signs shall be removed within 5 days of the signing of an agreement for the sale, rental or lease of the dwelling or lot. The sale of

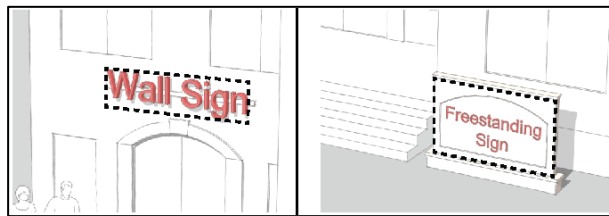


four (4) or more dwellings in a development under construction may also be advertised by 1 residential real estate sign not exceeding 24 square feet in area.



*C. Multiple-Family Dwellings and Developments.*

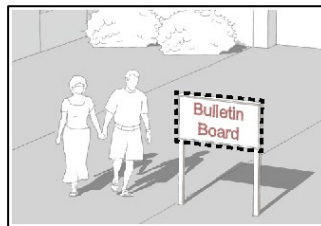
Signs for multiple-family dwellings and developments of any size shall be limited to 1 permanent monument sign or 1 permanent wall sign mounted on and parallel to the surface of the building, not exceeding 24 square feet in area, for the purpose of identifying the development. Multiple-family dwellings and developments of less than 12 units may have 1 residential real estate sign not exceeding 6 square feet. Multiple-family dwellings of 12 or more dwelling units may have 1 residential real estate sign not exceeding 12 square feet in area.



*E. Signs for Churches and Other Places of Worship.*

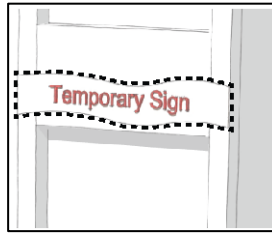
Churches and other places of worship located in any zoning district may have signs described as follows:

1. One permanent bulletin or reader board not exceeding 6 square feet in area.

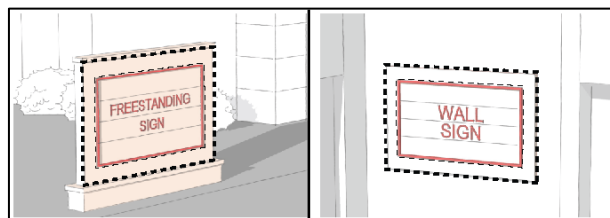


2. One temporary sign not exceeding thirty-two (32) square feet in area announcing a special event.





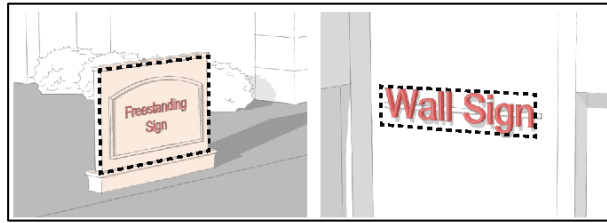
3. A maximum of one (1) permanent monument sign and one (1) permanent wall sign mounted on and parallel to the surface of the building. A maximum of two (2) permanent monument signs, or a maximum of two (2) permanent wall signs mounted on and parallel to the surface of the building for corner properties only. Each permanent monument or wall sign shall not exceed fifty (50) square feet in area. Only one (1) EVM shall be allowed, and it shall not exceed thirty-two (32) square feet and must adhere to Section 17.108.050.(F) of this Code. The following standards shall be considered in determining whether such signs are approved:
  - a. Suitability of the proposed signs in view of the character of the existing and proposed buildings of the church or other place of worship.
  - b. Suitability of the proposed signs in view of the character and development of the adjacent and nearby properties.
  - c. Suitability of the proposed signs in view of the area of the property on which the church or other place of worship is located.
  - d. Suitability of the proposed sign in view of the number and size of the streets on which the church or other place of worship is located.
  - e. Suitability of the proposed signs in view of the amount of public street frontage which the church or other place of worship has.



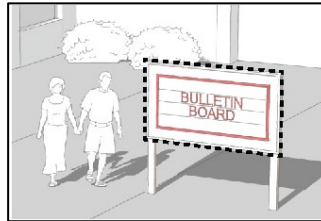
*F. Public Buildings, Parks, Schools, Cemeteries, and Other Public Uses, Private and Parochial Elementary and Secondary Schools, Hospitals, Churches and Other Places of Worship.*

Signs for public buildings, parks, schools, cemeteries, and other public uses, private and parochial elementary and secondary schools, hospitals, churches and other places of worship shall be limited to the following:

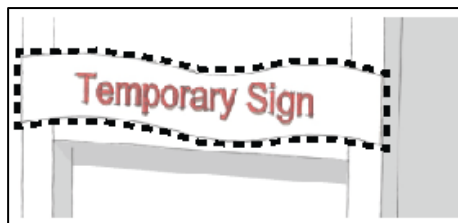
1. One (1) permanent monument sign and/or one (1) permanent wall sign mounted on and parallel to the surface of the building. See Section 17.108.050(B & C) for more information of sign areas.



2. One permanent bulletin or reader board, including changeable copy panel, not exceeding 24 square feet in area; and



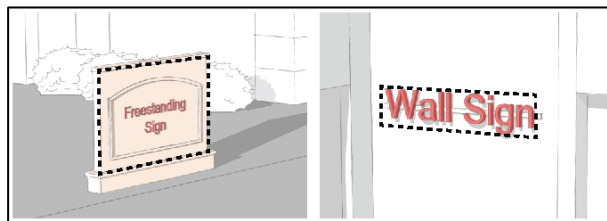
3. One temporary sign not exceeding thirty-two (32) square feet in area announcing a special event.



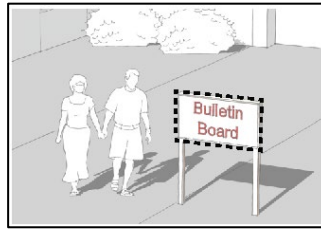
*G. Colleges, Seminaries, and Other Institutions of Higher Learning.*

Signs for colleges, seminaries, and other institutions of higher learning shall be limited to the following:

1. One permanent monument sign and/or 1 permanent wall sign mounted on and parallel to the surface of the building, not exceeding 24 square feet in area, for each street on which the institution has at least 500 linear feet of street frontage;



2. One permanent sign or bulletin/reader board not exceeding 6 square feet in area; and

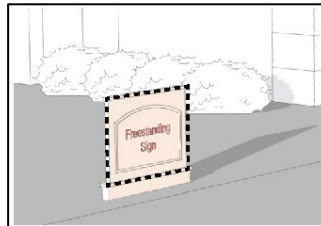


3. One temporary sign of thirty-two (32) square feet announcing a special event provided such sign is not placed or suspended closer than 10 feet to any property line or street right-of-way line.



*H. Nursery Schools, Day Care Centers, Nursing Homes, Sanitariums, Homes for the Elderly.*

Signs for nursery schools, day care centers, nursing homes, sanitariums, homes for the elderly shall be limited to 1 permanent monument sign not exceeding thirty-two (32) square feet in area located not closer than five (5) feet to any property line.



*I. Multiple-Tenant Office Buildings.*

In addition to signs permitted in Section 17.108.120.J. for storefront or street-facing businesses, signs for multiple tenant office buildings shall be limited to a lobby directory except that a multistory office building in excess of 50,000 square feet may have 1 permanent business identification monument sign and/or 1 permanent business identification wall sign that shall not exceed one (1) square foot per linear foot of street frontage or one-hundred (100) square feet per sign face, whichever is less.

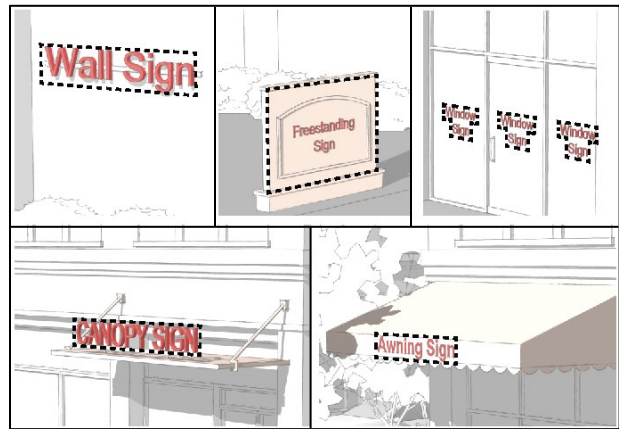


*J. Storefront or Street-Facing Business.*

Signs for a storefront or street-facing business shall be limited to the following:

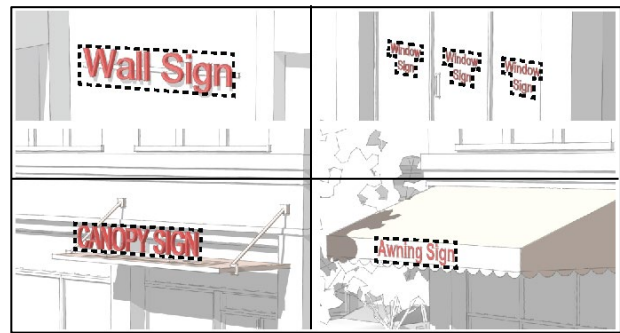
1. Permanent Primary Signs.

The primary business identification sign may be a wall sign, a monument sign, a ground sign, a window sign, or awning or canopy sign. If a wall, a monument or awning or canopy sign, such sign shall not exceed two (2) square foot of sign area for each linear foot of street frontage of the business, the total sign area not to exceed 200 square feet. If a window sign, such sign shall not exceed one-tenth of the total window surface of the window in which it is located.

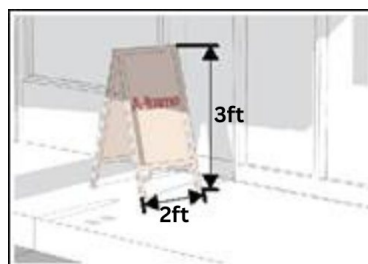


2. *One Permanent Secondary Sign.*

The secondary business identification sign may be a wall sign, a window sign or an awning or canopy sign. If a wall, an awning or canopy sign, such sign shall not exceed 1 square foot of sign area for each linear foot of street frontage of the business for the street to which it is oriented, with a total sign area not to exceed 100 square feet. If a window sign, the area of such sign shall not exceed ten (10) % of the total window surface area of the window in which it is located.



3. One temporary A-frame for display purposes not exceeding four (4) feet in height and two (2) feet in width.



4. *Temporary Signs Limited To:*

- a. Window signs, provided the area covered by such signs does not exceed ten (10) percent of window surface area in which it is located and there are no more than 1 temporary sign per building façade with windows; or

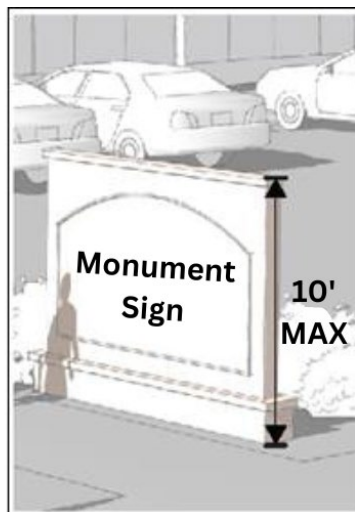


- b. Banners not exceeding thirty-two (32) square feet in area. Banners may be used for a period not to exceed seven (7) days in each calendar year.



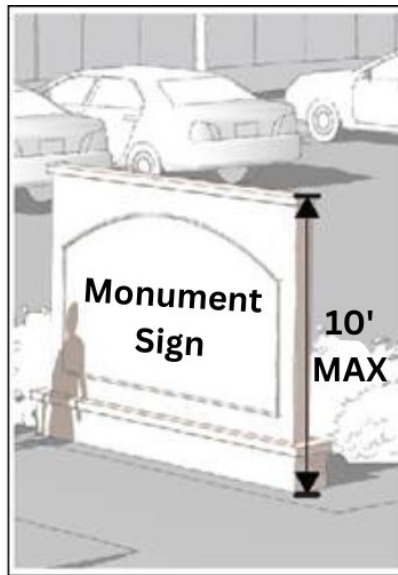
#### K. *Vehicular Businesses.*

Signs for vehicular businesses shall be limited to signs permitted for storefront or street-facing businesses, as regulated by 17.108.120.J. above, and 1 business identification monument sign, the area of which shall not exceed 1 square foot of sign area for each linear foot of street frontage of the business, the total sign area not to exceed one-hundred (100) square feet.



#### L. *Shopping Centers.*

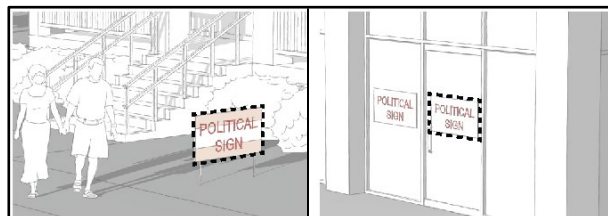
In addition to signs permitted for individual businesses located in a shopping center, as may be regulated by 17.108.120.J. and 17.108.120.K., a shopping center may have 1 permanent monument sign of not more than 1 square foot of sign area per linear foot of building frontage, the total sign area not to exceed 100 square feet, to identify the shopping center and businesses which are located in the center.



*M. Political Signs.*

Political signs are permitted in all zoning districts, but they shall be limited only to developed properties. These signs are permitted for a period of not more than 6 weeks before a duly authorized election date. Political signs shall be removed within seven (7) days following the authorized general election date or within seven (7) days of the candidate's or issue's election or defeat, whichever comes first. Primary and general election dates shall be established by applicable federal, state or local law. Political signs shall not exceed 8 square feet in area and shall not exceed 2 signs per lot. Political signs shall not be located closer than ten (10) foot to the edge of a public road surface. However, no political sign shall be permitted in a public right-of-way. Political signs displayed in non-residential or multiple-family zoning districts may only be placed in the window area of the primary structure.

Political signs may be displayed on private property in connection with political campaigns or noncommercial civic health, safety or welfare campaigns. Political signs shall not exceed nine (9) square feet in sign area and shall not exceed a height of three (3) feet. Political signs displayed in non-residential or multifamily zoning districts may only be placed in the window areas of the primary structure. All such signs shall be removed within seven (7) days of the date of conclusion of the campaign. Candidates are obligated and required to remove campaign signs placed on their behalf that are unlawfully located or that extend beyond the conclusion of the campaign and shall be liable to the City for the costs incurred in removing such unlawful signs. Campaign signs are specifically prohibited in or upon any public right-of-way or other public property and shall not be located closer than ten (10) feet from the curb of a public road surface.



N. *Service Stations.*

Signs for service stations shall be limited to the following:

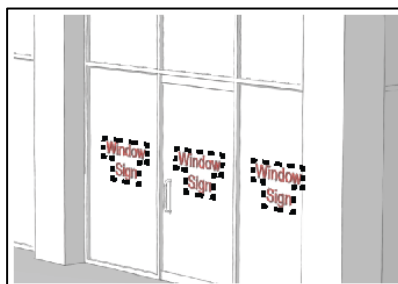
1. One permanent business identification monument sign with price panel, the maximum area of which shall be determined by the regulations for vehicular businesses in 17.108.120.K.



2. One permanent principal business identification wall sign mounted flat on the building for the primary face with a sign area based on one (1) square foot of building frontage up to maximum of 100 square feet.



3. Temporary signs shall be permitted, provided that they are limited to window signs, and the total window surface area covered by such signs does not exceed 10% of the window surface area in which they are located.



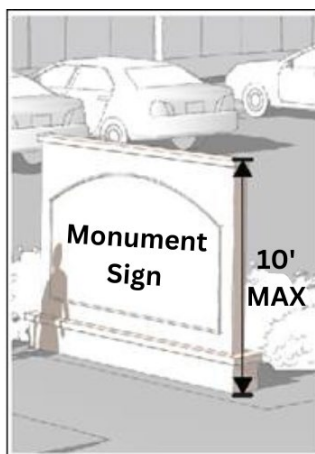
4. Pennants, banners and other similar devices shall be permitted only for grand openings. The display time shall not exceed seven (7) days total time.



5. Prohibited signs and sign devices at service stations. The following signs and sign devices are prohibited: temporary promotional signs other than window signs, tire and oil displays placed away from the building, signs of wood or other combustible materials, signs attached to pumps and light poles other than directional signs, signs that wrap around bollards, roof signs, vehicles used as signs, light bulb lines, feather flags, and searchlights.

O. *Professional Offices.*

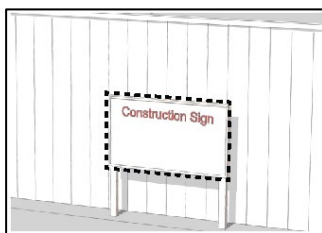
Signs for a professional office shall be limited to a non-illuminated permanent monument business identification sign not exceeding thirty-two (32) square feet in area.



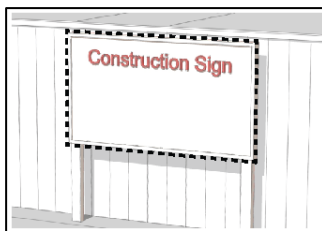
P. *Construction Signs.*

During construction on or development of property, construction signs shall be permitted as follows:

1. Residential and professional office zoning districts. One construction sign not exceeding thirty-two (32) square feet in area.



2. Commercial zoning districts. One construction sign not exceeding thirty-two (32) square feet in area.





### **Section 17.108.130. Special Limitations.**

In addition to the limitations set forth in the other sections of this Article, the following limitations shall apply to these specific types of signs:

#### *A. Wall Signs.*

1. The total allowable sign area of the primary facade can be cumulative and split across multiple wall signs on the primary façade only.
2. No wall sign shall cover wholly or partially any wall opening, nor project beyond the ends or top of the wall to which it is attached.

#### *B. Temporary Signs.*

1. Temporary signs must be removed from the premises within thirty (30) days from the date the sign is issued, except for banners placed in City parks which must be removed within seventy-two (72) hours after placement.
2. If any Temporary sign is erected or maintained in such a manner so as to be in violation of this article and all other ordinances and laws of the City, the City may give written notice to the owner thereof and to the owner of the property and premises upon which the sign is located that the sign must be removed within three (3) days. If the sign is not thereafter removed, the City may cause its removal and impose the cost of the removal as a lien upon the property upon which the sign sits.

C. Commercial Entrance Sign. All Entrance signs shall be placed on private property and may not be placed in the right-of-way.

D. Subdivision sign. All Subdivision signs shall be placed on private property and may not be placed in the right-of-way.

E. Hand Held signs. Owner/user at their own risk.

F. Banners. All banners shall be allowed to be erected for no more than seven (7) consecutive days whereby there is no re-use of said banner after expiration of time interval if for same use. Exception shall be for that of special events whereby the Community Development Director shall reserve the authority of issuance after applicant provides necessary information pertaining to size, type, and location. Colors shall be of neutral color as to compliment the design standards of existing and new development. Banners also shall not be allowed along street frontages at ground level. This will deter the signage from being a potential traffic hazard and impacting the established streetscapes within the City limits.

G. Banners in City Parks are the responsibility of the Parks Department of the City or County.

### **Section 17.108.140. Special Requirements By Zoning Classification.**

In addition to all other regulations in this article, and except for as expressly provided for otherwise, all signs must conform with the requirements of the charts contained in this section. As used in these charts, the term "0" means that the use of that type of sign is prohibited.

- A. No sign shall be illuminated, either internally or externally, in any district zoned RA, R-200, R-100, R-85, R-75, RM-75, RTD, RCD and R-60, except that monument and/or subdivision signs may be externally illuminated from dusk until dawn.
- B. All Temporary signs are prohibited on lots zoned for residential use, except for Stake signs.
- C. In the Downtown Business District, except for properties used for residential, the following standards shall apply. **NOTE: All proposed signage permits are submitted to the Community Development Department, then forwarded for review by the Main Street Manager and the Main Street Board of Directors' Design Committee. Once their review is complete, Main Street forwards a recommendation, a suggested change, or a denial to the Community Development Director. After Main Street responds, the final signage is approved by the Community Development Director per City Code and any applicable Zoning conditions.**
  - 1. Materials of Construction. All signs must be made of wood or metal unless painted or otherwise applied directly upon windows, awning valances or the exterior of the building. Paper, plastic (i.e. vinyl) and cardboard are prohibited as sign materials in the Historic Downtown Business District except on windows.
  - 2. Projection over Public Property. The bottom of every hanging sign shall be placed at least eight (8) feet above the public sidewalk over which it is erected, and at a distance no greater than four (4) feet from the face of the wall to which it is attached, measuring from the point of the sign nearest thereto; and no sign or part thereof shall extend nearer the curb line than one (1) foot.
  - 3. Directory Signs. Directory signs shall be required for all buildings where more than one tenant occupies space for commercial use within one building. Signs shall be included to enhance public safety by providing information to public safety officers of occupancy and aide traffic flow. Such directory sign shall not exceed three (3) square feet in sign area and shall be considered part of the total number of signs allowed for the building.
  - 4. No Hindering Ground Signs. Ground signs shall be designed so as to not hinder pedestrian activity within the district.
  - 5. Monument Signs. Monument signs shall be mounted on a decorative base not exceeding two feet (2') in height.
  - 6. Window Signs.
    - a. If not requiring a Permit, the signage shall not exceed ten (10) percent of the total window or door area.
    - b. If requiring a Permit, the signage shall exceed ten (10) percent of the total window or door area.
  - 7. A-Frame Signs
    - a. A-Frame Signs are not to exceed a sign area of six (6) square feet.
    - b. Materials shall be metal or wood. All other materials are prohibited.

8. External illumination shall be allowed with the Director's permission.
  9. Internally Illuminated signs are prohibited.
  10. Projecting Signs are prohibited.
  11. Roof signs are prohibited.
  12. Neon signs are prohibited.
  13. Temporary signs are prohibited.
  14. Flashing signs are prohibited.
- D. In districts used for hotels and hospitality as well as any other districts in which plan review and approval are required prior to development. The following requirements shall be observed:
1. A uniform design scheme of signs shall be established for the development as a whole and/or for each building in the development and approved by the City.
  2. A signage plan for the development shall include detailed descriptions of all signs, including but not limited to, size, height, location, type, colors and materials to be used, lighting and ownership responsibility.
  3. Plans for signs shall undergo the same review and approval process as is required of other aspects of the development.
  4. All signs shall be designed, erected and maintained in accordance with an approved plan.

**Section 17.108.150. Exceptions.**

- A. Signs which, on the effective date of this article, were approved and legally erected under previous sign restrictions and which became non-conforming with respect to the requirements of this chapter restrictions:
1. No change shall be made in the size of any non-conforming sign, nor shall any structural changes be made in such a sign unless the sign is brought into compliance with the provisions of this chapter.
  2. Any non-conforming sign declared to be unsafe by the Community Development Director shall be removed or rendered safe and brought into compliance with the provisions of this chapter.
  3. No non-conforming sign damaged by fire or other causes shall be rebuilt in compliance with this Chapter.
  4. Any sign erected in violation of this section may be removed from any public property or right-of-way by duly authorized employees of the City, and the responsible party may be cited for such violation.
  5. No conforming sign or advertising device shall be permitted or erected on any lot which has located there upon an existing non-conforming sign until the non-conforming sign has been removed.
- B. A non-conforming sign shall not be replaced by another non-conforming sign, except that the substitution or interchange of poster panels, painted boards or dismountable

material on non-conforming signs shall be permitted.

- C. Minor repairs and maintenance of non-conforming signs shall be permitted. However, no structural repairs or changes in the size or shape of this sign shall be permitted except to make the sign comply with the requirements of this chapter.

- D. *Big Box Stores (i.e. Home Depot, Lowes, Walmart, etc.)*

Sign Area. The max area of a wall sign is one (1) square foot per linear foot of Building Frontage to a maximum of five-hundred (500) square feet, whichever is less.

- E. The total allowable sign area of the primary facade can be cumulative and split across multiple wall signs on the primary façade only.

#### **Section 17.108.160. Unsafe and Unlawful Signs.**

- A. If the Director shall find that any sign regulated herein is unsafe or unstable or is a menace to the public health or safety, or is abandoned, or is maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of the provisions of this article, the Director shall notify the permittee, owner, or occupant of the property on which the sign is located by certified mail of such violation. Said notice shall include a brief and complete statement of the violations to be remedied. If the permittee, owner, or occupant of the property where the sign is located cannot be located, notice shall be effected by the community development Director affixing the notice to the sign or to the building on which the sign is erected.
- B. If the permittee or property owner fails to remove or alter the structure so as to comply with the standards herein set forth within ten (10) days after such notice, the permit for such sign shall be revoked and the permittee or property owner shall be subject to the penalties set forth in Section 17.108.170.
- C. In any case in which a sign is an immediate threat to the physical safety of persons or adjoining property, the Director may cause such structure to be removed summarily and without notice and cause the cost of same to be placed as a lien on the property upon which the sign sits.

#### **Section 17.108.170. Penalties.**

Any person found in violation of any of the provisions of the article shall be subject to a fine not to exceed five hundred dollars (\$500.00) per day. A separate offense shall be deemed committed each day during or upon which a violation occurs or is permitted to continue. Any sign erected or maintained in violation of this chapter for more than thirty (30) days shall also be subject to removal by the City at the owner's or permittee's expense.

#### **Section 17.108.180. Severability.**

- A. It is hereby declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this chapter is severable from every other section, paragraph, sentence, clause or phrase of this chapter.
- B. It is hereby further declared to be the intention of the Mayor and City Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this chapter is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this chapter.

- C. In the event that any phrase, clause, sentence, paragraph or section of this chapter shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court of competent jurisdiction, it is the express intent of the Mayor and City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the chapter and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the chapter shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 17.108.190. Signage Chart.**

	RA	R-200	R-100	R-85	R-75	R-60	RM-75	RTD	MU	OI	C-1	C-2	C-3	M-1	M-2	Historic
AWNING SIGN																
Height of Lettering (inches)									10	10	10	10	10			10
Illumination (Internal or External)									External	External	External	External	External			External
Signable Area									10%	10%	10%	10%	10%			10%
Clearance (feet) (from grade)									8	8	8	8	8			8
CANOPY SIGN																
Height of Lettering (inches)									10	10	10	10	10			10
Illumination (Internal or External)									Both	Both	Both	Both	Both			Both
Signable Area									1 SF per Linear Feet of Frontage							1 SF per Linear Feet of Frontage
Clearance (feet) (from grade)									8	8	8	8	8			8
HANGING SIGN																
Signable Area (Square Feet)									6	6	6	6	6			6
Two-sided									Yes	Yes	Yes	Yes	Yes			Yes
Illumination (Internal or External)									External	External	External	External	External			External
Projection from Building (Feet)									4	4	4	4	4			4
Clearance (feet) (from grade)									8	8	8	8	8			8
DIRECTIONAL SIGNS																
Signable Area (Square Feet)									3	3	3	3	3	3	3	3
Height (feet)									3	3	3	3	3	3	3	3

	RA	R-200	R-100	R-85	R-75	R-60	RM-75	RTD	MU	OI	C-1	C-2	C-3	M-1	M-2	Historic
Number Allowed (per entrance/exit)									2	2	2	2	2	2	2	2
A-FRAME SIGNS																
Signable Area (Square Feet per side)									6	6	6	6	6			6
Height (Feet)									3	3	3	3	3			3
Width (Feet)									2	2	2	2	2			2
Clearance from Building (Feet)									5	5	5	5	5			5
Number Allowed									1	1	1	1	1			1
Materials									Wood & Metal	Wood & Metal	Wood & Metal	Wood & Metal	Wood & Metal			Wood & Metal
GROUND SIGNS																
Max Height (Feet)									6	6	6	6	6	6	6	6
Max Width (Feet)									8	8	8	8	8	8	8	8
Signable Area (Square Feet)									32	32	32	32	32	32	32	32
Max number allowed									1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW	1 per façade facing ROW
Setbacks (ROW & Electrical Transmission Lines)									10	10	10	10	10	10	10	10
Illumination (Internal or External)									External	External	External	External	External	External	External	External
Minimum Clearance from Grade (Feet)									2	2	2	2	2	2	2	2
MONUMENT SIGNS																
Max Height (Feet)									10	10	10	10	10	10	10	10
Max Width (Feet)									10	10	10	10	10	10	10	10



	RA	R-200	R-100	R-85	R-75	R-60	RM-75	RTD	MU	OI	C-1	C-2	C-3	M-1	M-2	Historic
Signable Area (Square Feet)									1 SF of Building Frontage up to Max of 100 SF							
Max Sq. Ft. Secondary facade									50	50	50	50	50	50	50	50
Max number of signs									1 per façade facing ROW							
Illumination (Internal or External)									Both	Both	Both	Both	Both	Both	Both	Both
Setbacks (Public ROW & Electrical Transmission Lines)									10	10	10	10	10	10	10	10
WALL SIGNS																
Primary Façade Signable Area (Square Feet)									2 SF of Building Frontage up to 200 SF							
Max Sq. Ft. Secondary facade									50% of Primary							
Max number of signs									1 per façade facing ROW							
WINDOW SIGNS																

	RA	R-200	R-100	R-85	R-75	R-60	RM-75	RTD	MU	OI	C-1	C-2	C-3	M-1	M-2	Historic
Primary Façade Signable Area (Square Feet)									10% of Window Area on Primary Façade							
Max Sq. Ft. Secondary facade									10% of Window Area on Primary Façade							
Max number of signs									1 per Window							
SUBDIVISION/ENTRANCE SIGNS																
Max Height (Feet)	4	4	4	4	4	4	4	4	8	8	8	8	8	8	8	8
Max Width (Feet)	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8
Signable Area (Square Feet)	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32
Max number of signs	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance	1 per Entrance
Setbacks (ROW & Electrical Transmission Lines)	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
TEMPORARY SIGNS																
Residential	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commercial									32 SF/4 ft by 8 ft and 1 every six (6) mos							

## CHAPTER 17.120. SITE DESIGN STANDARDS.

### Section 17.120.010. Sidewalks and Street Trees.

#### 17.120.011. Sidewalk and Street Tree Standards.

- A. *General requirements.* Developments are permitted only if the public streets, drainage facilities, and utilities are adequate to serve the proposed development.
- B. *Sidewalks.* All developments shall be required to install public sidewalks along any public streets within and adjacent to the development.
  - 1. All sidewalks shall be constructed in the right-of-way or in a sidewalk easement adjacent to the right-of-way (ROW) as required by the City.
  - 2. The minimum Sidewalk width requirements are:
    - a. Local Streets – Five (5) feet
    - b. Collector – Eight (8) feet
    - c. Arterials – Ten (10) feet
  - 3. All sidewalks shall be constructed of concrete consistent with all applicable City construction standards.
  - 4. Sidewalks shall connect to adjacent developments to create uninterrupted pedestrian walkways.
  - 5. Sidewalks are required in all areas of the City of McDonough.
- C. *Internal Pedestrian Pathways.* All developments shall be required to install designated walks or paths providing for pedestrian and bicycle movement between public sidewalks and the structures on the site.
  - 1. These designated pedestrian pathways shall be a minimum of eight (8) feet in width and shall be asphalt, concrete or crushed stone.
  - 2. Designated walks shall be separated by grade or distance from entrance drives and internal traffic aisles and drives.
  - 3. These designated pedestrian pathways shall be ADA compliant.
- D. *Street trees.* All developments shall be required to provide street trees on private property along the right-of-way.
  - 1. One (1) street tree shall be planted for every forty (40) feet of road frontage.
  - 2. All street trees shall be a minimum of two and one-half (2½) inch caliper as measured consistent with the American Nursery Standards Institute (ANSI) at the time of planting and shall be of a species approved by the Director.
  - 3. No tree shall be planted within ten (10) feet of any fire hydrant and any underground utility service.
  - 4. Street trees shall be a variety of trees, so that a monoculture is not created.
- E. *Maintenance of Sidewalks.* The occupant of any building and/or the owner of any lot shall keep the sidewalks adjacent to any building or lot clean of such refuse, rubbish, dead animals, weeds, underbrush, high grass, etc. As used in this section, "sidewalk"

shall include all the ground, whether paved or not, between the property line and the back of the curb or edge of the pavement if no curb exists.

- F. Easements.* No structure except for fencing shall be located, or otherwise obstruct any easement. Fences shall be permitted within easements subject to the receipt of written permission from the easement holder. Fences located in an easement are subject to all fencing requirements of this Code.

### **Section 17.120.020. Landscaping Standards.**

*This section shall prevail over Chapter 15.32 – Landscaping until that chapter is updated.*

#### **17.120.021. Applicability.**

This Chapter shall apply to all development activity occurring within the City, application for which is made subsequent to the effective date of this Ordinance, and all construction activity where, during the course of construction, Impervious Surface is added within all zoning districts as the same may hereafter be created, abolished, or amended. It is further the intent of this ordinance to allow flexibility and creativity in design without compromising the overall intent of enhancing the developed environment and harmonizing it with the natural environment.

#### **17.120.022. Landscape Plan.**

A landscape plan shall be submitted for any proposed use or building which requires the submittal of a land development site plan. Landscape plans shall be reviewed by the planning division. Landscape plans shall be approved prior to the issuance of a building permit and shall meet the following requirements:

*A. Planting plan specifications.*

1. Minimum scale of one (1) inch = fifty (50) feet.
2. Location of sight triangles.
3. Spot elevations showing height from the proposed contour to top of all retaining walls, curbs, steps and any contour changes. Existing and proposed contours with contour interval not to exceed two (2) feet.
4. Typical straight cross section including slope, height and width of berms and type of ground cover or height and type of construction for all proposed walls, including footings.
5. Location, name, size, quantity, and condition of all existing plant materials, with indication of plant materials to be retained and removed.
6. Location and complete plant schedule of materials to be planted on site, including name (botanical and common), size, and quantity.
7. Landscape and buffer maintenance notation; and
8. Tree protection plan, where applicable, in accordance with Chapter 17.160. Tree Conservation.
9. Significant construction details to resolve specific site conditions, e.g. tree wells to preserve existing trees, culverts to maintain natural drainage patterns.

10. Planting and staking details in either text or drawing form to insure proper installation and establishment of proposed plant materials.

*B. Preparation and certification of the plan is required:*

1. Georgia licensed landscape architect who shall sign the plan and affix his or her official seal on the plan.
2. All landscape plans shall be prepared in accordance with the Rules and Regulations of the Georgia Board of Landscape Architects.

*C. Irrigation plans.*

1. Where required, the irrigation plan shall be drawn and certified by a Georgia licensed landscape architect or irrigation contractor in accordance with Rules and Regulations of the Georgia Board of Landscape Architects.
2. The irrigation plan shall bear the name of the preparer along with the official seal of the landscape architect or the irrigation license number, as applicable. Submitted with and as part of the landscape plan, the irrigation plan must be twenty-four (24) inches by thirty-six (36) inches, drawn to scale, and include a legend of dimensions and specifications of all irrigation components to be installed including the location and type of all valves, heads, sleeving, controller, backflow preventer, water source connection, main line, and lateral piping.

*D. Landscape planting standards.* All new trees required to be planted by this chapter shall be measured consistent with the American Nursery Standards Institute (ANSI), as follows:

1. All trees shall be two and one-half (2½) inches in diameter or six (6) feet in height, whichever is greater) at the time of planting measured at six (6) inches above the root ball.
2. All shrubs shall be twenty-four (24) inches in height at the time of planting measured from ground level.
3. If shrubs are being used for screening, they shall be thirty-six (36) inches in height at the time of planting and shall be at a height of seventy-two (72) inches within two (2) years of being planted.
4. These planting standards shall not be considered as fulfilling any screening or buffer requirement.
5. No landscaping materials, vegetation, plants, shrubs, trees, retaining walls, bedding, lighting, or mounds may extend into any existing or proposed right-of-way or easement without written permission from the agency that established the right-of-way or easement.
6. A list of plant materials can be found in the section.

### **17.120.023. Approved Landscape Materials.**

*(This section may be updated from time to time at the discretion of the Director.)*

The following materials and those found in the GDOT Plant List are approved for inclusion in landscape plans required under this Chapter:

#### ***A. Medium & Large Trees (No 'dwarf' varieties of those listed)***

American Beech (Fagus Grandiflora)  
American Holly (Ilex Opaca)  
American Yellowwood (Cladrastis Kentukea)  
Autumn Blaze Maple (Acer Freemanii)  
Bald Cypress (Taxodium Distichum)  
Black Gum or Tupelo (Nyssa Sylvatica)  
Boxelder (Acer Negundo)  
Chestnut Oak (Quercus Prinus)  
Chinese Elm (Ulmus Parvifolia)  
Dawn Redwood (Metasequoia Glyptostrobodies)  
Eastern Hemlock (Tsuga Canadensis)  
Eastern Red Cedar (Juniperus Virginiana)  
Green Ash (Franxinus Pennsylvania)  
Hickory Species (Carya)  
Honey Locust (Gleditsia Triacanthos var. Inermis)  
Laurel Oak (Quercus Hemisphaerica)  
Live Oak (Quercus Virginiana)  
Lolblollly Pine (Pinus Taeda)  
Longleaf Pine (Pinus Palustris)  
Overcup Oak (Quercus Lyrata)  
Palmetto Palm or Cabbage Palm (Sabal Palmetto)  
Pin Oak (Quercus Palustris)  
Post Oak (Quercus Stellata)  
Red Maple (Acer Rubrum)  
Red Mulberry (Morus Rubra)  
River Birch (Betula Nigra)  
Sawtooth Oak (Quercus Acutissima)  
Scarlet Oak (Quercus Coccinea)

Shortleaf Pine (*Pinus Echinata*)  
Shumard Red Oak (*Quercus Shumardii*)  
Slash Pine (*Pinus Elliottii*)  
Southern Magnolia (*Magnolia Grandiflora*)  
Spruce Pine (*Pinus Glabra*)  
Sugar Maple (*Acer Saccharum*)  
Sugarberry (*Celtis Laevigata*)  
Swamp Chestnut Oak or Basket Oak (*Quercus Michauxii*)  
Sycamore (*Platanus Occidentalis*)  
Trident Maple (*Acer Buergerianum*)  
Tulip Poplar (*Liriodendron Tulipifera*)  
Virginia Pine (*Pinus Virginiana*)  
White Ash (*Fraxinus Americana*)  
White Oak (*Quercus Alba*)  
White Pine (*Pinus Strobus*)  
Willow Oak (*Quercus Phellos*)  
Yellow Buckeye (*Aesculus Flava*)  
Zelkova (*Zelkova Serrata*)

## **B. *SMALL TREES (If overhead powerlines are present)***

American Hornbeam (*Carpinus Caroliniana*)  
Big-Leaf Magnolia (*Magnolia Macrophylla*)  
Bigleaf Snowbell (*Styrax Grandifolius*)  
Buckthorn Bully (*Sideroxylon Lycioides* (Syn. *Bumelia Lycioides*)  
Carolina Buckthorn (*Frangula Caroliniana*)  
Carolina Silverbell (*Halesia Tetraptera*)  
Chinese Fringe (*Chionanthus Retusus*)  
Crape Myrtle (*Lagerstroemia Indica* x *Fauriei*)  
Deodara Cedar (*Cedress Deodora*)  
Downy Serviceberry (*Amelanchier Arborea*)  
Eastern Hophornbeam (*Ostrya Virginiana*)  
Eastern Red Bud (*Cercis Canadensis*)  
Florida or Southern Sugar Maple (*Acer Barbatum*)  
Flowering Dogwood (*Cornus Florida*)  
Fringetree or Grancy-Greybeard (*Chionanthus Virginicus*)  
Georgia Oak (*Quercus Georgiana*)  
Ginkgo (*Ginko Biloba*) (Male Tree only)  
Golden Raintree (*Koelreuteria Paniculata*)  
Japanese Black Pine (*Pinus Thunbergiana*)  
Japanese Maple (*Acer Palmatum "Crispum"*)  
Kwansan Cherry (*Prunus 'Kwanzan'*)  
Kousa Dogwood (*Cornus Kousa*)  
Saucer Magnolia (*Magnolia Soulangeana*)  
Laurel Oak (*Quercus Laurifolia*)  
Leyland Cypress (*Cupressus* x *Leylandii*)  
Loblolly Bay (*Gordonia Lasianthus*)  
Mayhaw (*Crataegus Aestivalis*)  
Narrow-Leaf Crabapple (*Malus Angustifolia*)  
Ogeechee Lime, Ogeechee Tupelo (*Nyssa Ogeche*)  
Parsley Hawthorn (*Crataegus Marshallii*)  
Pink Flowering Dogwood (*Cornus Florida "Rubra"*)  
Possumhaw (*Ilex Decidua*)



Red Bay (*Persea Borbonia*)  
Red Flowering Dogwood (*Cornius Florida "Red"*)  
Sassafras (*Sassafras Albidum*)  
Sourwood (*Oxydendrum Arboreum*)  
Texas Redbud (*Cercis Canadensis* var. *Texensis*)  
Trident Maple (*Acer Buergerianum*)  
Turkey Oak (*Quercus Laevis*)  
Two-Winged Silverbell (*Halesia Diptera*)  
Virginia Pine (*Pinus Virginiana*)  
Washington Hawthorn (*Crataegus Phaenopyrum*)  
Wax Myrtle (*Myrica Cerifera*)  
Wild Olive, Devilwood (*Osmanthus Americanus*)  
Yaupon Holly (*Ilex Vomitoria*)  
Yoshino Cherry (*Prunus Yedoensis*)

## **C. *SHRUBS***

Adam's Needle, Beargrass, Spanish Bayonet, Threadleaf Yucca (*Yucca Filamentosa*)  
American Beautyberry (*Callicarpa Americana*)  
American Bladdernut (*Staphylea Trifolia*)  
American Boxwood (*Buxus Sempervirens*)  
American Snowbell (*Styrax Americanus*)  
Arrowwood Viburnum (*Viburnum Dentatum*)  
Azalea (*Azalea Indica*)  
American Holly Bush (*Ilex Opaca*)  
Bayberry (*Myrica Pensylvanica*)  
Bar Harbor Juniper (*Juniperus* H. "Barharbor")  
Bigleaf Hydrangea (*Hydrangea Macrophylla*)  
Black Titi, Buckwheat Tree (*Cliftonia Monophylla*)  
Blackhaw Viburnum (*Viburnum Prunifolium*)  
Bottlebrush Buckeye (*Aesculus Parviflora*)  
Button Bush (*Cephalanthus Occidentalis*)  
Burford Holly (*Ilex Cornuta* "Burfordii")  
Camellia (*Camellia Japonica*)  
Cherry Laurel (*Prunus Laurocerasus*)  
Common Privet (*Ligustrum Vulgara*)  
Common Witchhazel (*Hamamelis Virginiana*)  
Darrow's Blueberry, Glaucous Blueberry (*Vaccinium Darrowii*)  
Deerberry (*Vaccinium Stamineum*)  
Devil's Walkingstick (*Aralia Spinosa*)  
Drooping Leucothoe (*Leucothoe Fontanesiana*)  
Dwarf Fothergilla (*Fothergilla Gardenii*)  
Dwarf Palmetto (*Sabal Minor*)  
Fetterbush, Pipestem (*Agarista Populifolia*)  
Fetterbush (*Lyonia Lucida*)  
Flame Azalea (*Rhododendron Calendulaceum*)  
Florida Anise-Tree (*Illicium Floridanum*)  
Gallberry, Inkberry (*Ilex Glabra*)  
Georgia Basil (*Clinopodium Georgianum*)

Groundsel Bush (*Baccharis Halimifolia*)  
Hibiscus (*Hibiscus Rosa Sinensis*)  
Hillside Blueberry, Blue Ridge Blueberry (*Vaccinium Pallidum*)  
Holly (*Ilex Crenata*)  
Hollywood Juniper (*Juniperus C. "Torulosa"*)  
Honeycup (*Zenobia Pulverulenta*)  
Hoptree, Wafer-Ash (*Ptelea Trifoliata*)  
Horse-Sugar, Sweetleaf (*Symplocos Tinctoria*)  
Hydrangea (*Hydrangea Sp.*)  
Littlehip Hawthorn (*Crataegus Spathulata*)  
Mapleleaf Viburnum (*Viburnum Acerifolium*)  
Mayberry (*Vaccinium Elliottii*)  
Mother-in-Laws Tongue (*Sansevieria T. "Laurentii"*)  
Mountain Laurel (*Kalmia Latifolia*)  
Mountain Stewartia (*Stewartia Ovata*)  
Needle Palm (*Rhapidophyllum Hystrix*)  
Nellie R. Stevens Holly (*Ilex 'Nellie r. Stevens*)  
Oakleaf Hydrangea (*Hydrangea Guercifolia*)  
Painted Buckeye (*Aesculus Sylvatica*)  
Piedmont Azalea (*Rhododendron Canescens*)  
Pinckneya, Feverbark (*Pinckneya Bracteata*)  
Peppermint Geranium (*Pelargonium Tomentosum*)  
Plumleaf Azalea (*Rhododendron Prunifolium*)  
Rabbiteye Blueberry Cultivars (*Vaccinium Virgatum*)  
Red Basil, Scarlet Calamint (*Clinopodium Coccinea*)  
Red Buckeye (*Aesculus Pavia*)  
Red Columbine (*Aquilegia Eximia*)  
Red Titi, Swamp Cyrilla (*Cyrilla Racemiflora*)  
Rhododendron & Deciduous Azalea Species  
Rhododendron, Evergreen Species  
Rusty Blackhaw (*Viburnum Rufidulum*)  
Saw Palmetto (*Serenoa Repens*)  
Savannah Holly (*Ilex x Attenuata 'Savannah'*)

Small Anise-Tree, Yellow Anise-Tree (*Illicium Parviflorum*)  
Southern Highbush Blueberry (*Vaccinium Corymbosum*)  
Southern Wax Myrtle (*Morella Cerifera*)  
Sparkleberry (*Vaccinium Arboreum*)  
Spice-Bush (*Lindera Benzoin*)  
Strawberry-Bush (*Euonymus Americanus*)  
Summersweet Clethra (*Clethra Alnifolia*)  
Swamp-Haw (*Viburnum Nudum*)  
Sweetshrub (*Calycanthus Floridus*)  
True Myrtle (*Myrtus C. "Compacta"*)  
Varigated Privet (*Ligustrum Variegata*)  
Virginia Sweetspire (*Itea Virginica*)  
Winged Sumac (*Rhus Copallina*)  
Winterberry (*Ilex Verticillata*)  
Yellow-Root (*Xanthorhiza Simplicissima*)

## **D. *GROUNDCOVERS***

Allegheny Spurge (*Pachysandra Procumbens*)  
Arugula (*Eruca Vesicuria*)  
Autumn Fern (*Dryopteris Erythrosora*)  
Birds Nest Fern (*Asplenium Nidus*)  
Bishop's Hat (*Epimedium spp.*)  
Blue Carpet Juniper (*Juniperus H. 'Wilronii'*)  
Bugleweed (*Ajuga Repens*)  
Cast Iron Plant (*Aspidistra Elatior*)  
Christmas Fern (*Polystichum Acrostichoides*)  
Common Sassafras (*Sassafrass Albidum*)  
Coral Bells (*Heuchera spp.*)  
Creeping Barberry (*Mahonia Repens*)  
Dwarf Japanese Plum Yew (*Cephalotaxus Harringtonia 'Prostrata'*)  
Dwarf Juniper (*Juniperus Com. Savepiis*)  
Foamflower (*Tiarella Cordifolia*)  
Green & Gold (*Chrysogonum Virginianum*)  
Japanese Painted Fern (*Athyrium spp.*)  
Japanese Spurge (*Pachysandra Terminalis*)  
Lenten Rose (*Helleborus Orientalis*)  
Lily of the Valley (*Convallaria Majalis*)  
Liriope, Clumping (*Liriope Muscari*)  
Little Brown Jug (*Hexastylis 'Asarum' Arifolia*)  
Mazus (*Mazus Repens*)  
Mondograss (*Ophiopogon Japonicus*)  
New York Fern (*Thelypteris Noveboracensis*)  
Plantain Lilly, Hosta (*Hosta sp.*)  
Partridgeberry (*Mitchella Repens*)  
Sargent Juniper (*Juniperus C. Sargentii*)  
Smooth Lady Fern (*Athyrium Asplenioides*)  
Southern Maidenhair Fern (*Adiantum Capillusveneris*)  
Spikemoss (*Selaginella spp.*)  
Spotted Lungwort (*Pulmonaria Saccharata*)

Strawberry Geranium (*Saxifraga Stolonifera*)

Virginia Chain Fern (*Woodwardia Virginica*)

Woodland Phlox (*Phlox Divaricata*)

## **E. *LAWN GRASSES***

Bermuda Grass (Cynodon spp.)

Centipede (Eremochloa Ophiuroides)

St. Augustine Grass (Stenotaphrum Secundaroa)"

Zoysia Grass (Zoysia spp.)

#### **17.120.024. Residential Landscape Requirements.**

- A. Single family detached dwelling developments located in the RA, R-200, R-100, R-85, R-75, and R-60 zoning districts shall be required to plant a minimum of one (1) Medium to Large Tree and one (1) Small Tree for every forty (40) linear feet of street right-of-way within the development. Said trees shall be planted between the curb and the sidewalk of rights-of-way.
- B. Single family detached dwelling developments located in the RA, R-200, R-100, R-85, R-75, and R-60 zoning districts shall be required to plant One (1) Shrub for every two hundred (200) square feet of Impervious Surface on site. See 17.120.022.(E) Landscape Planting Standards for additional plant information.
- C. All disturbed yard areas (other than Natural Areas) in residential zoning districts shall be sodded. Permanent sod grassing shall be installed in all front yards, side and rear yards. All yard landscaping shall extend to the edge of curbing of the nearest public street. All drainage easements on the property shall be graded and landscaped for positive surface drainage away from the Primary Structure constructed on the platted lot with consideration for avoidance of surface drainage problems, potential erosion and flooding of adjoining properties. The grading and landscaping of drainage easements shall be in conformance with drainage easement locations and design as indicated on the approved final plat of the subdivision.
- D. The Community Development Director, or designee shall determine if the minimum landscaping requirements of this section have been met prior to the final inspection of the structure. When weather does not permit landscaping to be done before a final inspection of the structure is made, the builder may request in writing and the director may grant up to a thirty (30) day extension for the completion of landscaping. Failure to complete the landscaping within the time granted shall constitute a violation of this chapter. Field conditions may require additional measures to assure positive surface drainage and/or prevent future erosion and washing of adjoining properties.

#### **17.120.025. Commercial Landscape Requirements.**

##### *Commercial Landscaping Design Criteria*

- A. A minimum twenty (20) foot landscape buffer must be provided along areas of the site where parking is adjacent to a public right-of-way. The landscape buffer shall be reduced to fifteen (15) feet if the developer constructs a natural stone wall, brick wall, or a combination of masonry pillars and cross-buck fencing. Additionally, the wall or fence shall be a minimum of four (4) feet in height with a ten (10) feet setback from the right-of-way line.
- B. A minimum of one (1) two (2) inch Caliper Medium or Large Tree and one two (2) inch Caliper Small Tree shall be planted for every two thousand (2,000) square feet of Impervious Surface on site.
- C. One (1) Shrub shall be planted for every three hundred (300) square feet of Impervious Surface on site. See 17.120.022.(E) Landscape Planting Standards for additional plant information.
- D. Ground Cover shall be provided in all pervious areas disturbed during construction. Outparcels on subsequent phases of phased developments or commercial subdivisions



may be temporarily seeded but shall be sodded within one (1) year if additional construction does not continue to proceed. Ground cover may be sodded, sprigged or plugged, except that solid sod shall be used in drainage swells or other areas subject to potential erosion. Ground covers shall be planted so as to achieve complete coverage within one (1) year from the time of planting.

- E. Ten (10) percent of all required landscaping areas shall be Annual/Perennial Beds.
  - 1. In the Fall and Spring, fifty (50) percent of all required Annual/Perennial Beds shall be planted with one of the following types of Geraniums: Zonal, Ivy, Regal, Angel, Scented, or Unique, during the warmer months of the year.
  - 2. Year-round, fifty (50) percent of all Annual/Perennials shall be a shade of red; the remaining fifty (50) percent of Annual/Perennials shall utilize a color scheme that enhances red.
  - 3. The remaining fifty (50) percent of all required Annual/Perennial Beds shall utilize a mix of annuals and perennials.
- F. Plant material required by this Chapter shall be in addition to requirements for planting in required buffers, as such as may be required by the Zoning Ordinance or as a condition of zoning approval.

#### **17.120.026. Parking Lot Landscaping Requirements.**

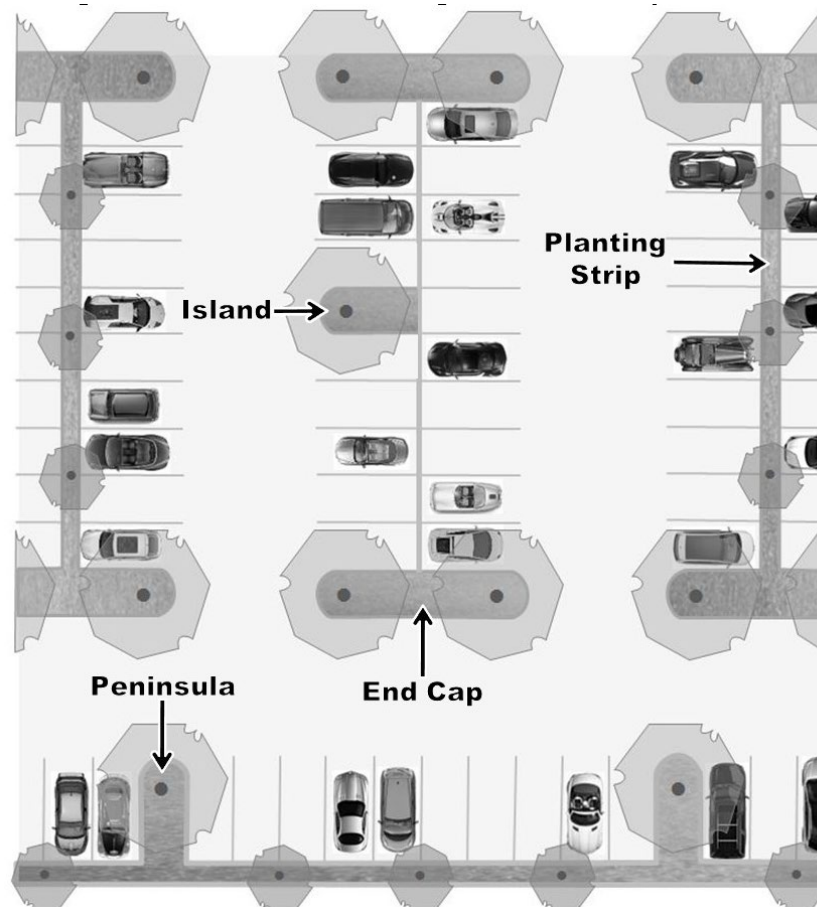
Parking lots and other vehicular use areas shall contain landscaped planting areas in accordance with the following requirements (Figure 17.120.026).

##### **A. Interior.**

- 1. For traditional character, parking lots are generally situated away from street rights-of-ways and complement walkability. To facilitate traditional site design, the Director may not require some or all of the interior lot landscape areas, depending on the size and functionality of the parking lot.
- 2. No interior landscape areas are required for parking lots consisting of less than ten (10) parking spaces.
- 3. Parking lots consisting of ten (10) or more parking spaces shall provide interior landscape areas in accordance with the following requirements:
  - a. A minimum of one (1) island or peninsula is required for every ten (10) contiguous parking spaces or fraction thereof.
  - b. An endcap is required at the end of each row of parking spaces.
  - c. Each island, peninsula, or endcap shall be a minimum of five (5) feet in width excluding the curb.
  - d. Each island, peninsula, or endcap shall contain a minimum of one (1) Canopy tree plus shrubs, grass, or other groundcover.
  - e. A planting strip shall be provided with a minimum width of five (5) feet for every two (2) parking aisles; the planting strip shall contain a minimum of one (1) Canopy tree for every ten (10) parking spaces or fraction thereof plus shrubs, grass, or other groundcover; [and]

- f. Interior lot landscaping shall be a minimum of ten (10) percent of site area not dedicated to required property buffers, streetscape landscaping, or buildings.
4. On any building side facing the interior of a parking lot, except those sides with pedestrian access to the building, openings for windows or overhead loading-area doors, or motor vehicle bays, shall be planted with landscaping that provides visual breaks along the blank building facade. The landscaping shall abut the building and be comprised of trees, shrubs, or ornamental plants in any combination, provided that at least fifty (50) percent of the total required plant materials are shrubs.

Figure 17.120.026. Parking Lot Landscape Areas



- B. *Perimeter Screening*: All parking lots, including parking spaces, interior drives, and loading/unloading areas, must be screened on any side abutting a residential use or zoning district.
  1. *Street rights-of-way*. In accordance with the streetscape requirements of this section, shrubs that form a living fence at maturity shall be planted along the street-facing perimeter of a parking lot or drive aisle to screen vehicles from view of the street right-of-way.
    - a. The screening must be placed within five (5) feet of the parking area and shall consist of a combination of shrubs and medium or large trees.

- b. All evergreen trees and shrubs must meet the planting requirements provided by this section.
- 2. *Vehicular use areas.* Where vehicular use areas on different development sites abut, a minimum five-foot continuous buffer with one (1) large tree per every thirty-five (35) linear feet, or portion thereof, plus a living fence, grass, or other groundcover, shall be provided between the abutting vehicular use areas.
  - a. All screening shall provide a barrier at least three (3) feet in height at the time of installation.
- C. Design Requirements: Landscaping provided at the perimeter of, and interior to parking areas shall meet the following design requirements:
  - 1. Parked vehicles may hang over the interior landscaped area up to one (1) foot, and wheel stops shall be provided to insure no greater overhang or penetration of the landscaped area.
  - 2. All areas not landscaped with hedges, walls, or trees shall be provided with grass or other acceptable ground cover.

#### **17.120.27. Detention Pond Landscape Requirements**

- A. Landscape plans shall be submitted for all detention/retention ponds.
- B. Detention/retention ponds shall be landscaped to provide a natural setting in open space areas which are removed from residential lots. Where possible, ponds or basins shall be "free form" following the natural shape of the land to the greatest practical extent.
- C. The minimum requirements for the landscaping of detention/retention ponds shall be as follows:
  - a. The required shrubs and groundcovers shall be planted in a random pattern or in groupings. The placement of the required landscaping is not limited to the top of the ground bank.
- D. A six (6) ft wrought iron fence shall be provided around all detention pond areas.
- E. Maintenance of detention/retention ponds and the landscaping thereof shall be the responsibility of the property owner or of the development association whichever is appropriate.
- F. At no time shall the turf along the banks of a detention/retention pond exceed eight (8) inches in height.

#### **Section 17.120.028. Buffer area standards.**

- A. In any residential development, all buffers must be fenced off on the development side with a basic rail or crossbuck fence. The fencing is required so adjacent property owners within the development do not absorb any required buffering into their property.
- B. In any commercial or industrial zoned district that abuts a residential zoned district, the owner of the property with a commercial or industrial zoning shall be required to maintain a buffer zone between the commercial property line at all points where it

intersects with a property line of property zoned residential.

- C. Buffer areas shall be established and maintained by the property owner under the following provisions:
  - 1. A lot zoned or used for a residential, office, institutional, and/or commercial, or occupied by a residential use shall provide a twenty-five (25) foot wide undisturbed buffer along all property lines adjoining property zoned for or used by 'For-Sale' residential purposes. Where commercial or industrial districts or developments abut RM-75 zoning districts, the same buffer requirements apply. The buffer shall be in addition to the required building setback line.
  - 2. When a new, 'For-Sale' development is proposed adjacent to an existing, non-residential use with no buffer present, the twenty-five (25) foot wide buffer must be provided by the residential development.
  - 3. If a twenty-five (25) foot wide buffer has been provided on the property adjacent to a proposed, non-residential development, the buffer requirement may be waived with the approval of the Director.
- D. Except as otherwise provided, herein, buffer strips shall be preserved in their natural undisturbed state, except that sparsely planted buffers shall be enhanced with additional plant material. Enhancement plants must provide an opaque screen within two (2) years of planting and must consist of trees, shrubs, and groundcover plants meeting the following standards:
  - 1. Plant selection will consist of forty (40) percent evergreen species and sixty (60) percent deciduous species.
  - 2. Deciduous trees must be a minimum of two (2) inch caliper and six (6) feet in height at time of installation.
  - 3. Evergreen trees must be a minimum of six (6) feet in height at time of installation.
  - 4. Shrubs must be a minimum of thirty-six (36) inches in height at time of installation.
  - 5. Plants will be spaced a maximum of eight (8) feet on center or as approved by the Director.
  - 6. Plantings shall be designed with a plant palate containing a mixture of colors, textures, and heights.
- E. Undisturbed buffers shall not contain any surface parking or storm water, detention facilities, or any structures except that the Director may approve underground facilities within the buffer or the crossing of the buffer for the purpose of extending utilities.
- F. The Director may approve vegetated runoff reduction measures within the buffer. The planting requirements above may be varied to accommodate vegetated runoff reduction measures as part of an approved stormwater management plan, if properly designed to provide stormwater management and screening functions.
- G. Stream buffers must be replanted where disturbed for approved access and utility crossing. Replacement plantings must be native and be arranged to have a natural appearance.
- H. All buffer plantings are subject to the approval of the Director.

- I. The requirements for a fence or wall may be waived by the Director upon presentation of field survey data by the property owner or developer, which shows that construction of the fence or wall would destroy existing vegetation which provides visual screening between the development and the adjoining residential district.
  - 1. If required, the minimum opaque fence or wall height shall be six (6) feet for developments in C-1, C-2, C-3, OI, RTD, MU, M-1 and M-2 districts when abutting a residential use.
- J. Required buffer areas shall not be used for parking or a structure other than a fence or drainage improvements required by the City. However, a buffer area may be used for vehicular access and utility easements if these uses are provided approximately perpendicular to the greater distance of the buffer area and for drainage improvements required by the City based upon competent engineering studies which show these improvements to be necessary, upon approval of the Director.
- K. Except as otherwise provided, the natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, to thin natural growth where too dense for normal growth, or to remove diseased, misshapen or dangerous and decayed timbers. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the Director; this easement may cover no more than 20% of the required buffer area and shall be immediately replanted upon completion of easement improvements.
- L. Where the conditions described above cannot be met by reason of the topography of the land or of the prior removal of or lack of vegetation and foliage, the owner of the buffer area may install a permanent screen of deciduous and evergreen plantings, so designed and developed to provide visual screening between the property described herein. These plantings shall consist of deciduous and evergreen trees or shrubs not less than six (6) feet in height, or trees or shrubs which will, in normal growth, attain a height of six (6) feet within two (2) years. Plantings shall form a hardy screen, dense enough and high enough both to interrupt vision and to diffuse the transmission of sound.
- M. Tree protection measures shall be followed in accordance with Chapter 17.160.

**Section 17.120.030. Parking standards.**

- A. *All required parking spaces and lots shall conform to the following requirements:*
  - 1. *Driving surfaces.* All parking areas, including the required parking spaces, interior drives, and ingress/egress into parking areas, must be paved with asphalt or concrete. All parking areas shall be clearly painted to show each parking space.
  - 2. *Drainage.* Parking areas must be constructed to allow proper drainage which shall be subject to the review and approval of the City Engineer.
  - 3. *Access to public streets.* Parking areas must be designed to prevent vehicles from having to back into or maneuver in public streets.
  - 4. *Locations.* Parking lots shall not be located in any right-of-way, easement, or any required buffer yard.

5. *Lighting.* Lighting for parking areas shall conform with the applicable requirements of the lighting standards section of this article.
6. *Landscaping.* Landscaping for parking areas shall conform with the applicable requirements of the landscaping standards section of this article.
7. *Required parking spaces.* Accessory off-street parking spaces shall be provided and maintained in accordance with the requirements set forth in the following table:

*B. Location of Required Spaces.*

1. The required accessory off-street parking facility shall be located on the same lot as the use for which it is provided or on a lot within four hundred (400) feet of the nearest boundary of the lot upon which the use is located measured by a straight line between the two (2) points without having to cross a major arterial or collector street.
2. The separate lot upon which such accessory parking facilities are provided shall be in the same ownership or control as the building or use to which the parking facilities are accessory. In such case, a notarized parking agreement shall be provided with a minimum time period of 25 years.

*C. Shared Parking Arrangements.*

1. Adjacent uses, multiple uses within a unified development, or establishments with multiple tenants of different uses may provide shared parking facilities. Such shared parking facilities may have a reduced quantity of parking as compared to the sum of parking spaces required for each individual use.
2. Where shared parking facilities are proposed, the following standards shall be met:
  - a. There shall be a paved driveway connection between the adjacent developments such that automobiles may move from one (1) parcel or use to the adjacent parcel or use without exiting to the public street.
  - b. There shall be a designated pedestrian connection from all uses to the shared parking facility.
  - c. The owners of developments involved shall execute a cross-access and cross-parking agreement, provided in a recordable instrument, acceptable to the City. The agreement shall guarantee the joint use of a specified number of parking spaces.
  - d. The number of spaces in the shared parking facility shall be determined by one (1) of the methods below.
3. The calculation of required spaces in a shared parking facility shall use one (1) of the two (2) methods described below:
  - a. A parking study may be conducted to provide evidence of the combined parking requirements of the proposed uses.
    - 1) The study shall be prepared by a professional engineer with documented traffic expertise.
    - 2) The study shall include estimates of parking requirements based on

<b>Residential Uses</b>	
One-Single Family Dwelling	4 for each dwelling unit. (2 in garage and 2 on the driveway)
Duplex, Triplex and Quadplex	2 for each dwelling unit, plus 1 overflow space per dwelling unit.
Multiple family dwellings	2 for each dwelling unit, plus 15 overflow spaces per 100 units.
Group homes, personal care homes	1 for each bedroom and 1 space per employee on largest shift.
Housing for the elderly	1 for each 2 dwelling units.
Bed and breakfast	1 for each guest room, plus 1 for each 2 Employees on the largest shift.
<b>Agricultural Uses</b>	
Farms, urban gardens, seasonal sales made on premises	6 + 5 per 1,000 sq. ft. ground area
<b>Educational Uses</b>	
Nursery Schools, Kindergartens, Day Care Centers	2 per 1,000 sq. ft. + 1 per 4 employees on the largest shift.
School, Public or Private, Elementary, and Middle	2 per classroom, plus 1 space per each 8 seats in auditorium or assembly area where seating is fixed or 1 per 50 square feet of gross floor area of auditorium or assembly area where seating is not fixed. (Stacking for twenty (20) cars must be provided on site.)
Senior high schools	One (1) space for each classroom and administrative office plus 1 space for each 4 students based on the design capacity of the school, plus 1 space per each 8 seats in auditorium or assembly area where seating is fixed or 1 per 50 square feet of gross floor area of auditorium or assembly area where seating is not fixed. (Stacking for twenty (20) cars must be provided on site.)
Trade, vocational business, and dancing schools; colleges and universities	5 per 1,000 sq. ft. in a classroom based on planned classroom, plus, plus 1 space per each 8 seats in auditorium or assembly area where seating is fixed or 1 per 50 square feet of gross floor area of auditorium or assembly area where seating is not fixed.

<b>Institutional Uses</b>	
Hospitals	One (1) space per bed, plus 1 space per 200 square feet of floor area used for outpatient treatment.
Clinics, health and medical centers	5 for every 1,000 square feet of gross floor area.
Medical institutions for children, adults, and the aged, and assisted living facilities	1 per bedroom + 5 per 1,000 sq. ft. of common area
<b>Public Assembly Uses</b>	
Arenas, assembly halls, auditoriums, concert halls, convention halls, dance halls, exhibition halls, gymnasiums, indoor theaters, pool or billiard halls, stadiums, and similar indoor amusement or recreation uses	1 for each 6 seats or total parking area equal to 3 times the gross floor area, whichever is greater. Where there are no fixed seats each 24 inches of bench or pew shall be considered 1 seat. Where there are no seats, benches, or pews, each 20 square feet of ground or floor area usable for seating shall be considered 1 seat.
Golf courses	8 for each green.
Public libraries and museums	One (1) space for each 300 square feet of gross floor space.
Places of worship	One (1) space for each 2 seats in the principal assembly room.
Recreation and community centers	1 per each 4 seats where seating is fixed; 1 per 25 square feet of gross floor area of assembly area where seating is not fixed
<b>Retail Sales Uses</b>	
Automobile repair and service garages	3 per bay, 1 per 500 square feet of enclosed area.
Automobile sales facilities, with accessory repair/body shop	1 per 500 SF enclosed area, 1 per 1,500 SF display area, 3 per service bay
Automobile sales facilities, without accessory repair/body shop	1 per 500 SF enclosed area, 1 per 1,500 SF display area
Automobile washing facilities	1 per 250 sq. ft., plus 10 stacking spaces per line, and two (2) drying spaces per stacking space.
Bars, taverns, restaurants, and other eating places	One (1) space for each 100 sq. ft. of the entire facility or 1 for each 4 seats based on maximum seating capacity, whichever is greater.



<b>Retail Sales Uses</b>	
Gasoline service stations	Two (2) spaces for each gasoline pump plus 1 space per 250 sq. ft. for convenience store.
Hotels	One (1) space for each guest room, plus 1 employee space for each 20 sleeping rooms, plus one space per 500 sq. ft. of space used for convention rooms, conference rooms, ballrooms, restaurant and/or retail shops.
Nurseries or plant-husbandry, garden supplies, agricultural produce, and other outdoor retail sales uses	One (1) space per 100 square feet of showroom, sales office or other conditioned space.
Retail, hardware, furniture, home renovation, office supply, equipment stores, Food stores, grocery stores, supermarkets	5 per 1,000 sq. ft.
Wholesale establishments	One (1) space per 600 square feet of gross floor area.
<b>Commercial Service Uses</b>	
All Commercial Zoning Districts (C-1, C-2, C-3, and MU)	1 bicycle parking space shall be provided for every 20 automobile parking spaces with a maximum of 30 spaces per site.
Medical or dental offices, and medical or dental laboratories	5 for each doctor or dentist, plus 1 for each 2 employees; or 1 for each 100 square feet of gross floor area, whichever is greater.
Mortuary and crematory establishments	1 per 3 fixed seats + 1 for each 25 sq. ft. in the largest assembly room, plus 1 for each vehicle maintained on the premises.
Other retail service uses	1 for each 500 square feet of gross floor area.
<b>Industrial Uses</b>	
Storage or warehouse uses	1 for each 3 employees expected to be on the premises during the largest work shift period One (1) space per 1,000 square feet of gross floor area, whichever is greater.
Self-Storage Mini warehouse	One space for each two employees and one space for each 200 square feet of dedicated office space.
Self-Storage Multi-story	One space for each two employees and one space for each 200 square feet of dedicated office space.
Junk, coal, lumber, contractors, or other open storage uses	1 per employee plus 4 per acre

Industrial Uses	
Other permitted industrial uses	1 for each 3 employees expected to be on the premises during the largest work shift period One (1) space per 1,000 square feet of gross floor area, whichever is greater.
Banks, governmental, business and professional office buildings	5 per 1,000 sq. ft.

professionally accepted data or studies, such as from the Institute of Traffic Engineers, Urban Land Institute, or other sources acceptable to the City.

- 3) Parking requirements shall be based on uses that are the same or comparable to the proposed uses. Comparability shall be determined by density, scale, bulk, area, type of activity, and location in relationship to other uses and the transportation system.
  - 4) Parking requirements shall be based upon peak hours of need for each use proposed to share parking facilities. The hours of maximum, or peak, parking demand of the respective developments shall not overlap.
  - 5) The study shall document the source(s) of data used to develop recommendations.
  - 6) The study shall document the extent to which transportation system management and alternative forms of transportation (pedestrian and bicycle) reduce the parking requirement.
  - 7) The study shall document the availability of off-site parking to meet a portion of the parking requirements. Off-site parking shall not be located more than one hundred fifty (150) feet from the uses that require parking. The study shall be accompanied by documentation to demonstrate the continued availability of the off-site parking, such as easements or other recordable instruments.
- b. Shared parking may also be determined by the following method:
- 1) Calculate the parking requirement for each proposed use, as set forth below.
  - 2) Multiply each amount by the corresponding percentages from the table below for each of the five (5) time periods.
  - 3) Total the amount of parking for each time period.
  - 4) The highest parking requirement shall be the minimum number of spaces required for the shared use facilities.

#### ***Shared Parking Demand Calculations***

<b><i>General Land Use</i></b>	<b><i>Weekdays</i></b>		<b><i>Weekend</i></b>		
	<b><i>Daytime 9:00 a.m.— 4:00 p.m.</i></b>	<b><i>Evening 6:00 p.m.— 12:00 a.m.</i></b>	<b><i>Daytime 9:00 a.m.— 4:00 p.m.</i></b>	<b><i>Evening 6:00 p.m.— 12:00 a.m.</i></b>	<b><i>Nighttim e 12:00 a.m.— 6:00 a.m.</i></b>
<b><i>Office or industrial</i></b>	<b><i>100%</i></b>	<b><i>10%</i></b>	<b><i>10%</i></b>	<b><i>5%</i></b>	<b><i>5%</i></b>
<b><i>Commercial</i></b>	<b><i>60%</i></b>	<b><i>80%</i></b>	<b><i>100%</i></b>	<b><i>60%</i></b>	<b><i>5%</i></b>

<b>General Land Use</b>	<b>Weekdays</b>		<b>Weekend</b>		
	<b>Daytime 9:00 a.m.— 4:00 p.m.</b>	<b>Evening 6:00 p.m.— 12:00 a.m.</b>	<b>Daytime 9:00 a.m.— 4:00 p.m.</b>	<b>Evening 6:00 p.m.— 12:00 a.m.</b>	<b>Nighttime 12:00 a.m.— 6:00 a.m.</b>
<i>Hotel/motel</i>	60%	100%	60%	100%	60%
<i>Restaurant</i>	70%	100%	75%	100%	10%
<i>Entertainment</i>	50%	100%	80%	100%	0%

*D. Administrative variance.* The Director shall have the authority to grant a reduction or increase in the total number of off-street parking spaces by up to 10 percent of the number required by the Table of Minimum Parking Requirements through administrative variance. Such administrative variance requires review and approval of the applicant's written documentation and justification that one or more of the following conditions exist:

1. Because of unique circumstances including the shape, topography, soils and vegetation of the site, the provision of the minimum number of required spaces would cause the applicant to suffer unique and undue hardship.
2. The site is located in an environmentally sensitive area, such as a water supply watershed, where stormwater runoff should be minimized.
3. The unique circumstances of the use make the minimum number of parking spaces excessive for actual needs.

*E. Access and maintenance of off-street parking spaces.*

1. Accessory off-street parking spaces, driveways, and maneuvering areas shall be properly graded for drainage so that all water is drained within the lot providing such parking spaces, surfaced with concrete, asphaltic concrete, asphalt, or other surfacing materials approved by the City engineer, and maintained in good condition and free of debris and trash.

*F. Americans with Disabilities Act.* Handicap parking spaces shall be provided in all parking areas consistent with the requirements of the Americans with Disabilities Act.

1. All uses shall provide parking spaces designated for access by disabled individuals.
2. The table below presents specifications for parking for disabled individuals:

## Required Parking for Disabled Individuals

Total Parking Spaces Required	Accessible Spaces Required
Up to 25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501+	2% of total required spaces

3. Accessible spaces shall be marked on the pavement and by appropriate signage, both markings to use the universally accepted "handicapped" symbol. Such spaces shall be in closest proximity to major building entrances, but in no event shall such spaces be more than one hundred (100) feet from an entrance.
  4. Ramps shall meet the design standards set forth in the Georgia Accessibility Code Chapter 120-3-20 of the Rules and Regulations of the Georgia Safety Fire Commissioner.
- G. *Maneuvering.* All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
1. two-way aisles between parking spaces shall be at least 24 feet in width.
  2. one-way aisles between parking spaces shall be at least 14 feet for 45-degree angle parking, at least 18 feet in width for 60-degree parking, and at least 24 feet in width for 90-degree angle parking.

3. Parking lots shall meet the following dimensional requirements:

**Parking Space and Interior Drive Requirements**

Angle of Parking	Minimum Driving Aisles Width (Feet)	Minimum Parking Space Size (Feet)	
		Width	Length
Parallel	12	10	24
45 degrees (one-way)	14	9	20
60 degrees (one-way)	18	9	20
90 degrees (two-way)	24	9	20

*H. Driveways.* The driveway used to provide accessibility to accessory off-street parking spaces shall be so located and arranged to minimize traffic congestion. Therefore:

1. No driveway shall be so located that there would be less than fifteen (15) feet between the point of tangency of the driveway apron radius and the outside crosswalk line at the intersection when such driveway is on the approach side of an intersection. In such cases as the driveway is on the leaving side of the intersection, the requirement shall be five (5) feet between the outside crosswalk line and the point of tangency of the driveway apron radius.
2. The maximum width of such driveway shall be thirty (30) feet measured at right angles to the angle of the driveway entrance. Such driveway shall have an apron radius at the curb of not less than six (6) feet or a curb cut of not more than sixty (60) feet and shall provide a means for motor vehicles to enter and leave the parking facilities without obstructing traffic.
3. For single family residential lots, minimum driveway width shall be 10 feet.
4. *Interior driveways.*
  - a. Interior driveways shall connect each parking space with a public right-of-way.
  - b. Inter-parcel driveway connection or provision of a future inter-parcel driveway stub (with appropriate cross-access easements) shall be required between adjacent non-residential properties. This requirement may be waived by the Director only if it is demonstrated that an inter-parcel connection is not feasible due to traffic safety or topographic concerns.
  - c. Interior driveways providing primary access to loading/unloading zones or loading docks for truck traffic shall be increased to 14 feet in width per travel lane.
  - d. Interior driveways surrounding gasoline pumps shall be increased to 40 feet in total width (as measured from the base of the gasoline pump islands).

*I. Stacking Lanes for Drive-through Facilities or Service Windows.*

A separate driveway and stacking lane shall be required for any drive-through window,

bank drive-through, ATM stand-alone structure, or drop-off or pick-up area. These stacking lanes shall be separate and distinct from the required through-lane providing circulation around the building or service facility.

1. The following general standards shall apply to all stacking lanes:

- a. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.
- b. Stacking lanes shall be a minimum of 12 feet in width, and parallel the entire length for the drive-through service area and narrowing to 10 feet adjacent to the service window or facility.
- c. Stacking lanes shall be a minimum of 12 feet in width along curved segments.
- d. Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.
- e. Entrances to stacking lane(s) shall provide adequate storage length from the nearest intersection.
- f. Stacking lanes shall be designed to prevent circulation congestion, both on-site and on adjacent public streets. The circulation shall: (a) separate drive-through traffic from site circulation, (b) not impede or impair access into or out of parking spaces, (c) not impede or impair vehicle or pedestrian traffic movement, and (d) minimize conflicts between pedestrian and vehicular traffic with physical and visual separation between the two.
- g. Stacking lanes shall not interfere with required loading and trash storage areas and loading or trash operations shall not impede or impair vehicle movement. If said separate stacking lane is curbed, an emergency bypass or exit shall be provided.
- h. Service areas and stacking lanes shall be set back 5 feet from all lot lines and roadway right-of-way lines.
- i. Each stacking space shall be a minimum of 20 feet in length and 10 feet in width along straight portions.
- j. All stacking lane entrances shall provide adequate storage length from the nearest intersection for a minimum of five cars per lane.
- k. The minimum number of cars per lane may be increased at the Director's discretion depending on the needs of the building or service facility.

J. *Vision Clearance.* In all districts, no fence, wall, shrubbery or other obstruction to vision between the heights of 2½ feet and 10 feet above the finished grade of streets shall be erected, permitted or maintained within 20 feet of the intersection of the right-of-way lines of streets.

K. *Pedestrian Circulation.*

1. Non-residential parking lots containing 200 spaces or more shall incorporate pedestrian access corridors into their design.

2. Pedestrian corridors shall include 5-foot sidewalks with 5-foot grassed strips along at least one side of primary driveways. The pedestrian corridors shall connect parking areas directly with buildings and adjacent public streets. These corridors shall not apply to auto sales lots.
3. Where pedestrian corridors cross a driveway, they shall be constructed as a raised, flat hump with a height of 4 inches and a 6-foot wide top with 4-foot wide ramps and marked as a crosswalk; or shall be constructed with an approved contrasting paver and marked as a crosswalk.
4. Parking spaces shall not be located more than 200 feet from any pedestrian corridor.

*L. Maintenance*

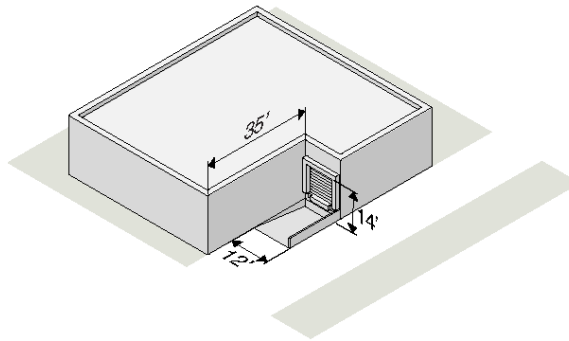
All off-street parking and loading areas shall be well maintained. Parking lots and loading areas shall be free of potholes, debris, weeds, broken curbs, and broken wheel stops.

- L. Electric Vehicle Charging Stations (EVCS) Electric vehicle charging stations are permitted as an accessory use within any principal or ancillary parking facility, or gas station, located within the area of designated vehicle parking spaces.
1. All non-residential and Dwelling, 'For-Rent' developments requiring 100 or more vehicle parking spaces shall provide electric vehicle charging stations. One (1) Level 2 EVCS for every 25 required vehicle parking spaces or one (1) Level 3 EVCS for every 100 required vehicle parking spaces shall be required.
  2. Minimum Parking Requirements. When provided, spaces shall be standard stall size of 9 x 20 ft. An electric vehicle charging station space may be included in the calculation for the minimum required parking spaces that are required pursuant to other provisions of code.
  3. All charging structures and stations shall not exceed 10 feet in height or 50% of the structural height of the primary building; whichever is most restrictive.
  4. Dedicated parking spaces for Electric Vehicle Charging Stations must be provided with a maximum 24 inches wide by 24 inches high sign per dedicated parking stall.
  5. Where charging equipment is installed, adequate site lighting shall exist.

**Section 17.120.040. Off Street Loading and Unloading Standards.**

Where required, one or more off-street loading berths or spaces shall be provided on the same or adjoining lot with the facility it serves, either inside or outside a building. A loading berth shall have minimum dimensions of 12 feet by 35 feet by 14 feet overhead clearance. A loading space need not be a full berth but shall be sufficient to allow normal loading operations appropriate to the property served. The Director shall determine the sufficiency of the space, but in no case shall this space or its use hinder the free movement of vehicles and pedestrians over a street or sidewalk.





**A. Retail Operations, Including Restaurants Within Hotels and Office Buildings, With a Total Gross Floor Area of 20,000 Square Feet Devoted to These Purposes**

One loading space for every 20,000 square feet of gross floor area or fraction thereof; one loading berth for every 40,000 square feet of gross floor area or fraction thereof.

**B. Retail Operations and All First Floor Non-residential Uses With a Gross Floor Area of Less Than 20,000 Square Feet; All Wholesale and Light Industrial Operations With a Gross Floor Area Less Than 10,000 Square Feet**

One loading space.

**C. Office Buildings and Hotels**

One loading berth for every 100,000 square feet of floor area or fraction thereof.

**D. Industrial and Wholesale Operations With a Gross Floor Area of 10,000 Square Feet or More**

Loading Requirements	
Facility Size (gross floor area)	Required loading
10,000-40,000 sq. ft.	1 space
40,000-100,000 sq. ft.	2 spaces
100,000-160,000 sq. ft.	3 spaces
160,000 sq. ft.-240,000 sq. ft.	4 spaces
240,000 sq. ft.-320,000 sq. ft.	5 spaces
320,000-400,000 sq. ft.	6 spaces

Loading Requirements	
Facility Size (gross floor area)	Required loading
Each 100,000 sq. ft. over 400,000	1 additional space

**Section 17.120.050. Fences and Walls.**

- A. *Height of Fencing or Walls.* No wall or fence in a residential zoning district shall exceed 4 feet in height within a required front setback line or six (6) feet in height in the balance of the yard.
- B. Exceptions to Section 17.120.060.A are as follows:
1. A fence or wall that encloses an approved stormwater management facility may be a maximum of six (6) feet in height.
  2. A fence or wall enclosing a tennis court may be a maximum of twelve (12) feet in height.
  3. Lots with double frontage may have a fence up to six (6) feet in height in the no access easement.
- C. *General Standards.*
1. All required setbacks for fences and walls shall be measured from the property line or existing street right-of-way line. Height of such fences or walls shall be measured from the grade level to the highest point of the fence or wall.
  2. All fences and walls, including, but not limited to posts, foundations, and overhanging elements, shall be located completely within the limits of the lot to which they are associated. Fences and walls located within required side and rear yards may be erected on the property line with the submission of written consent from all adjacent property owners or a certified survey verifying the location of lot boundaries.
  3. Fences that have one (1) finished or decorative side shall be oriented with the finished or decorative side facing outward towards adjacent parcels and away from the interior of the lot to which the fence is associated. Masonry walls shall be finished in a similar manner on all sides.
  4. In all zoning districts, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of two and one-half (2.5) feet and fifteen (15) feet shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) streets or of a street intersection with a railroad right-of-way line.
  5. No privately-owned fence shall be installed within any public right-of-way or within any City-owned area.

6. No fence shall block access to utility easements between lots, as is stated on some approved plats or plans.
  7. No fence shall be installed so that, in the opinion of the fire chief, it prevents or unduly restricts access to property for emergency purposes.
  8. If a fence is designed so that its structural supports are primarily on one (1) side, that side must always be toward the interior of the property.
  9. If a fence is required by any governmental authority to provide for the safety and security of the residents of the City, that fence shall not be removed or otherwise left in an unsafe condition for any reason without the approval of the Director, and without proper precautions being taken to provide continuous protection.
  10. It shall be the responsibility of the owner of the property on which a fence is located to maintain that fence in good and proper repair so that at all times it presents a neat and orderly appearance to surrounding property owners and to the general public.
  11. Any fence that is damaged by accident or an act of God shall be properly repaired within ninety (90) days of occurrence. Fencing required for public safety purposes shall be repaired immediately. The repair time may be extended at the discretion of the Director.
  12. All fences shall be constructed of pressurized wood (including cedar, cypress, or pine), brick, metal, or chain-link.
    - a. In the event the fence is constructed of chain-link, all exposed metal parts must be vinyl-coated or painted a standard dark brown, dark green or black color to blend into the natural surroundings.
    - b. Chain-link fences in residential areas must not be visible from the right-of-way.
  13. Walls or masonry post shall require engineer stamped construct plans to be approved by the Building Department.
  14. With corner lots, the front fence shall be setback a minimum of five (5) feet from the public right-of-way. The side fence shall be setback a minimum of five (5) feet from the public right-of-way.

The fence setback requirement for corner lots is due to the location of water lines in the City of McDonough. In most cases, the water lines are located in the first five (5) feet of all lots between the public right-of-way and the building.
  15. Cross-buck fencing is required by this Code in certain circumstances.
- D. *Subdivision Entrance Features.* Walls or fences incorporated into a subdivision entrance feature shall not exceed ten feet in height and shall be subject to review and approval by the Director after the submission of a landscape plan, site plan and architectural elevations to the Department.
- E. *Administrative variance.* The Director may condition the approval of a rezoning or special use permit to require that walls or fences of a height in excess of these regulations shall be placed in any yard where such walls or fence is necessary to provide screening. Such administrative variance requires review and approval of the

applicant's written documentation and justification that one or more of the following conditions exist:

1. Because of unique circumstances including the shape, topography, soils and vegetation of the site, the provision of the maximum height would cause the applicant to suffer unique and undue hardship.
2. The unique circumstances created by the location, or the height of neighboring buildings, causes the maximum fence height of six (6) feet inadequate due to the height of adjacent building and the privacy of one's house.

F. *Fence Material.*

1. Any wall or fence which extends into the required front yard on property less than 3 acres in area shall be constructed of brick, stone, wood, wrought iron, cast metal, or split rail.
2. No wall or fence constructed of woven wire or metal fabric (chain link, hog wire or barbed wire) shall extend into a front yard.
3. Exposed concrete block, tires, scrap metal, sheet metal, plastic/fiberglass sheeting, vinyl siding or fabric, plywood, pallet material, junk or other discarded items shall be prohibited as fence material in all zoning districts.
4. The use of barbed-wire, razor wire or similar fencing materials is specifically prohibited in all zoning districts, except in industrial zoned districts. Such fencing materials may be allowed upon application to and approval by the Director. High voltage electric fences are prohibited throughout the City; however, the construction and use of low voltage electric fences, shall be allowed in the City only as provided in this section and subject to the following standards:
  - a. *Location.* Electric fences shall be permitted only in industrial zoned districts.
  - b. *Setback.* Electric fences shall be a minimum of twenty-five (25) feet from all perimeter property lines when adjacent to residential zoning districts.
  - c. *Buffers.* Electric fences shall not enclose a landscape buffer without the Director's permission.
  - d. *Height.* Electric fences shall have a minimum height of six (6) feet and maximum height of eight (8) feet, but such height can be extended up to ten (10) feet if an administrative variance is granted.

G. *Temporary Fence.* The Director may permit the installation of a temporary fence of material which is not otherwise allowed under this section at a construction site, if it is felt that the fence would be necessary to protect the public safety or would be necessary to provide proper security for the site. A temporary fence shall remain in place for no more than one (1) year and must comply with the following conditions:

1. Temporary fences shall not exceed six (6) feet in height if they are located within any setback area.
2. No signs shall be attached to any temporary fence.

H. *Permit Required.* A fence permit shall be required for all work performed in association with the construction, alteration, or relocation of a fence or wall, except where

otherwise specified herein. Fences and walls for which a fence permit is not required:

1. Repairs to an existing fence or wall with no structural changes.
  2. Replacement of an existing fence with a new fence that is the same type and height and in the same location as the existing fence; provided the replacement fence is otherwise in full compliance with this chapter.
  3. The installation of gates of up to eight (8) feet in width in an existing fence or wall with no structural changes.
- I. *Permit Application.* Applications for fence permits shall be made upon forms provided by the community development department. The following information shall be provided with the application:
1. A plot plan or lot survey shall be provided that includes the location of all existing and proposed fences, walls, structures, easements, and setback dimensions.
  2. A detail of the proposed fence or wall with all appropriate dimensions shall also be provided.
  3. Written consent of all adjacent property owners, or a certified survey verifying the location of lot boundaries, where a fence or wall is proposed to be erected or installed on a property line.
  4. Other information that the Director may require to show full compliance with this section.
- J. *Legal non-conforming fences and walls.* All existing legal non-conforming fences or walls shall be permitted to continue as such until removed, extended, or altered, at which time such fences or walls shall be made to conform to the provisions of this section.

## **Section 17.120.060. Outdoor Lighting Standards.**

### **A. *Purpose and Intent***

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

- B. All outdoor illuminating devices must be installed in conformance with the provisions of this Zoning Code, the Building Code and the Electrical Code as applicable and under appropriate permit and inspection.
- C. For all land uses, developments and buildings that require a permit, all outdoor lighting fixtures shall meet the requirements of this Code. All building additions of 50% or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this Section, will invoke the requirements of this Section for the entire property, including previously installed and any new outdoor lighting.

Cumulative modification or replacement of outdoor lighting constituting 60% or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, will constitute a major addition for purposes of this Section.

*D. Minor Additions*

Additions of less than 50% of additional dwelling units, gross floor area, or parking spaces that require a permit, and that include changes to existing lighting require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site must meet the requirements of this Section with regard to shielding and lamp type.

*E. Exempt Lighting*

The following luminaires and lighting systems are exempt from these requirements:

1. Interior lighting;
2. Lighting for pools used at night;
3. Underwater lighting used for the illumination of swimming pools and fountains;
4. Temporary holiday lighting which have to be removed after seven (7) days of the holiday passing;
5. Lighting required and regulated by the Federal Aviation Administration, or other federal, state or local agency;
6. Emergency lighting used by police, fire, or medical personnel, or at their direction;
7. All outdoor light fixtures producing light directly from the combustion of fossil fuels, such as kerosene and gasoline; and
8. Security lighting controlled and activated by a motion sensor device for a duration of 10 minutes or less.

*F. Prohibited Lighting*

The following lighting systems are prohibited:

1. Aerial lasers.
2. Searchlight style lights, temporary searchlights may be turned on for 8 hours within a 24-hour period and for no more than 3 consecutive days, once each calendar year.
3. Other very intense lighting, defined as having a light source exceeding 200,000 lumens or intensity in any direction of 2 million candelas or more; and
4. Sodium and Mercury vapor lamps.
5. Light strips around windows.

*G. Outdoor Lighting Standards*

All non-exempt outdoor lighting fixtures shall meet the following criteria:

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

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

#### H. *Specific Uses*

All lighting not directly associated with the special use areas designated below must conform to the lighting standards described in this Section.

1. Lighting of outdoor recreational facilities (public or private), such as, but not limited to, outdoor athletic fields, courts, tracks, special event or show areas, shall meet the following requirements:

- a. Luminaires

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

- 1) Are provided with internal or external glare control louvers or lenses, and are installed so as to minimize uplight and offsite light trespass and glare; and
- 2) Are installed and maintained so as to avoid aiming more than 2.5 times the mounting height.

- b. Illuminance

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

- c. Off-Site Spill

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

- d. Curfew

Field lighting for these outdoor athletic facilities shall be turned off within 30 minutes after the last event of the night.

- e. Setback

All light poles shall be set back the greater of 50 feet or one foot for every foot in height from any residential property line or right-of-way.

2. Service Station Canopies and Parking Structures

- a. All luminaires mounted on or recessed into the lower surface of service station

canopies and parking structures must be fully shielded and use flat lenses.

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

### 3. Security Lighting

- a. Security lighting is lighting that provides a level of illumination to clearly identify persons or objects and creates a psychological deterrent to unwanted or unsafe activity in the area being protected.
- b. Security lighting must be directed toward the targeted area, and not adjacent properties.
- c. Sensor-activated lighting must be located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and the light must not be triggered by activity off the property.

### 4. Pedestrian Path Lighting

Lighting posts must not exceed 16 feet from the finished grade.

### 5. Architectural Accent Lighting

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

### 6. Commercial Parking Areas

- a. All lighting fixtures servicing parking lots, except floodlights, must be cut off fixtures, directed downward and not toward buildings or other areas.
- b. The minimum illumination level for a parking lot is 0.4 foot-candles at grade level and the ratio of the average illumination to the minimum illumination must not exceed 4:1.
- c. Floodlights must be aimed or shielded to minimize uplight.
- d. Light poles used in parking lots must not exceed 35 feet in height.

## I. *Administrative Variance.*



1. The Director shall have the authority to grant a modification to the Outdoor Lighting Standards. Such administrative variance requires review and approval of the applicant's written documentation and justification that one or more of the following conditions exist:
  - a. How the proposed design and appearance of the luminaire are superior;
  - b. How light trespass and glare will be limited;
  - c. How the proposed solution will provide a benefit without negative impact on the health, safety, or welfare of the community.
2. The application may include the recommended practices of the Illuminating Engineering Society of North America, a professional engineer, or other authority on outdoor lighting.

J. *Plans and Evidence of Compliance*

1. Application

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

- a. Plans indicating the location on the premises of each illuminating device, both proposed and any already existing on the site.
- b. Description of all illuminating devices, fixtures, lamps, supports, reflectors, both proposed and existing. The description may include but not limited to catalog cuts and illustrations by manufacturers.
- c. Photometric data, such as that furnished by manufacturers or similar, showing the angle of cut off of light emissions.

2. Additional Submissions

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

3. Subdivision Plats

All new subdivided properties must submit information as described above for installed streetlights and other common or public area outdoor lighting.

4. Certification

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

K. *Contracting with utilities.*

The Mayor and City Council may contract with public utilities for the purpose of carrying out the terms of this article.

L. *Grandfathering.*

No outdoor lighting installed before the adoption of this section on January 1, 2025, is exempt from the regulations of this section unless it is grandfathered by permission of the Director.

**Section 17.120.070. Access Management Standards.**

The intent of the access management standards is to provide safe and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion and increase connectivity. Pedestrian, bike, and vehicular access should be safe, direct and convenient.

A. *Vehicular Access Points.* Minimum required points of access shall be constructed in accordance with the Table of Vehicular Access Points listed below:

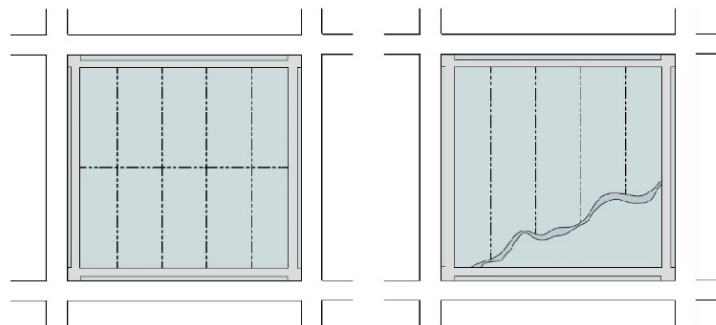
**Table of Vehicular Access Points**

Type of Development	Minimum Number of Vehicular Access Points to Public Streets
Residential, < 50 units	1
Residential, 51 to 150 units	2
Residential, > 151 units	3 or more (at the discretion of the Director)
Non-residential, less than 50 parking spaces	1
Non-residential, 51-200 required parking spaces	2
Non-residential, 201-500 required parking spaces	3
Non-residential, 501 or more required parking spaces	4 or more (at the discretion of the Director)

B. *Blocks*

Sites greater than 4 acres in size must incorporate existing or new streets that terminate at other existing or new streets to form an interconnected network with the maximum block perimeter lengths that follow:

<i><b>Zoning District</b></i>	<i><b>Block Perimeter (Max.)</b></i>
<b>R-200, R-100, R-85, R-75 &amp; R-60</b>	<i><b>2,400 feet</b></i>
<b>RTD &amp; MU</b>	<i><b>2,400 feet</b></i>
<i><b>C-1, C-2, O-I, &amp; OI</b></i>	<i><b>2,400 feet</b></i>
<i><b>M-1 &amp; M-2</b></i>	<i><b>n/a</b></i>



1. In addition to the block standards above, blocks containing exclusively 'For Sale' detached dwellings must be wide enough to provide two tiers of lots, except where fronting on arterial streets prevented by topographical conditions or size of the property, in which case the Director may require and/or approve a single tier of lots.
2. Other than stub-out streets, dead-end streets are not allowed unless an administrative variance is granted for topographic hardship.
3. Block Measurement.
  - a. A block is bounded by a public or private right-of-way (not including an alley). All public or private rights-of-way proposed as part of a development must be improved with a street.
  - b. Block perimeter is measured along the edge of the property abutting the public or private right-of-way, except for the measurement of dead-end streets, which are measured from intersecting centerlines.
  - c. The Director may modify the block perimeter requirements when steep slopes in excess of 25%, preexisting development, tree protection areas, stream buffers, cemeteries, open space, or easements would make the provision of a complete

block infeasible.

- d. Where the block pattern is interrupted by public parkland, including greenways, that is open and accessible to the public, pedestrian access points must be provided with a minimum spacing equal to half of the maximum block perimeter.

C. *Access.*

1. General. When land is subdivided or otherwise developed, parcels and buildings must be arranged and designed so as to allow for the opening of future streets and must provide access to those areas not presently served by streets. No development may be designed to completely eliminate street access to abutting parcels without current street access.
2. Stub-Out Streets.
  - a. Stub-Out Required.
    - 1) Where a development abuts unsubdivided land, stub-out streets within the new development must be installed to meet the block standards of Section 17.120.80.(B).
    - 2) The stub-out street right-of-way, pavement, and curbing must extend to the boundary of the abutting parcel to the point where the connection to the anticipated street is expected.
    - 3) Where a stub-out street is provided, a sign noting the future street extension must be posted at the applicant's expense.
  - b. Connecting to an Existing Stub-Out Street. If a stub-out street exists on an abutting parcel, the street system of any new development must connect to the stub-out street to form a through street.
  - c. Exception. The Director may eliminate the requirement for a stub-out street or require pedestrian and bicycle only access when steep slopes in excess of 25%, freeways, waterways, tree conservation areas, stream buffers, cemeteries, open space or easements would make the provision of a stub-out street infeasible.

E. *Vehicle Cross-Access.*

All lots in districts allowing commercial uses, attached 'For-Sale' dwellings, or 'For-Rent' dwellings, and all lots where the adopted comprehensive plan land use classification would allow for rezoning to such district, that abut another lot in a district or land use classification allowing either commercial uses, attached 'For-Sale' dwellings, or 'For-Rent' dwellings must comply with the following standards.

1. Internal vehicular circulation areas must be designed and installed to allow for cross-access between abutting lots.
2. Vehicle cross-access may not be gated.
3. When an abutting lot is vacant or already developed, a stub for a future cross-access connection must be provided at the point where the connection to the abutting parcel is expected to occur in the future.

4. If a cross-access driveway stub exists on an abutting parcel, the internal vehicular circulation area must connect to the stub to form a cross-access connection.
5. When cross-access for vehicles is deemed impractical by the Director on the basis of topography, the presence of natural features, or vehicular safety factors, the requirement for cross access may be waived. Bicycle and pedestrian connections must be provided between abutting properties when cross-access is waived.
6. Property owners who establish cross-access easements must:
  - a. Allow pedestrian and vehicular access to all properties on the same block face as the property owner establishing the cross-access. Pedestrian and vehicular access is contingent upon the granting of reciprocal vehicular, bicycle, and pedestrian access rights to the granting property.
  - b. Record an easement allowing cross-access to and from properties served by the cross-access easement.
  - c. Record a joint maintenance agreement requiring each property owner to maintain the vehicular, bicycle, and pedestrian access areas on their lot.
  - d. Contain a provision prohibiting the erection of fences, walls and other obstructions that prevent the use of vehicular, bicycle, and pedestrian access ways.
  - e. Include a statement that the cross-access agreement is conveyed with the land, is binding on all successors, heirs and assigns and that the easement rights are perpetual.
  - f. The cross-access agreement must be signed by all of owners of the granting property.

#### **Section 17.120.080. Open Space and Natural Resource Areas**

##### **A. *Open Space Management.***

The following Open Space Management Plan shall be adopted as the basis for the protection, management, and development of Open Space Lands, Regional Preserves, or Natural Resource areas presently owned or acquired by the City in the future.

##### **B. The lands categorized below shall be officially designated and posted accordingly:**

###### **1. *Open Space and Local Parks.***

- a. Alexander Park;
- b. Alexander Park West;
- c. Avalon Park;
- d. Big Springs Park;
- e. Community Garden;
- f. Richard Craig Park;
- g. Geranium Park;
- h. Hope Park;

- i. Jonesboro Road Park; and
  - j. Rufus Stewart Park.
- C. Future purchases, easements, leases or dedications of lands meeting Open Space, Local Parks, Regional Parks, or Natural Area criteria be designated appropriately and posted as such immediately upon acquisition.
- D. The Community Development Department shall be responsible for coordinating the development of individual programs comprising the Comprehensive Open Space Management Plan and insuring their review by the appropriate departments and review bodies.

**17.120.081. Open Space Standards.**

- A. *Intent:* Open space standards are intended to provide a balance between the built and natural environments in order to provide open space that can help relieve pressures from urban areas. Open spaces are also meant to maintain the vital, geological, and cultural links of the greater McDonough Area.
- B. *Applicability:* This Plan differentiates residential, mixed-use, and non-residential developments.
- C. *Detached Open Space Standards*
- 1. Intent: Detached open space is required to help provide relief from density to balance the urban environment of the future. In addition, detached open space is intended to help preserve the integrity and fabric of this unique natural and cultural area.
  - 2. Residential or Mixed-Use Development: Following the intent of the City Zoning Code for all residential or mixed-use development, 30% of the proposed development site. This regulation and density threshold for each zone have been analyzed and calibrated to achieve a target open space acreage that can balance the density/intensity of proposed development as well as help to protect sensitive lands within the Plan area.
  - 3. Non-Residential Development: Following the intent to preserve open space in Developing Urban areas per City Zoning Code, for all exclusively non-residential developments, a minimum of 20% of the development site shall be open space. This regulation has been analyzed and calibrated to achieve a target open space acreage that can balance the density/intensity of proposed development as well as help to preserve nature and open space.
- D. *Usable Open Space Standards*
- 1. All non-residential developments in the City shall provide a minimum of 20% of their site acreage as usable open space on-site with the following exception:
    - a. Usable open space is not required for mixed-use or non-residential properties if located within 1,500 feet of a park, plaza or other usable open space that is two (2) acres or greater in size and accessible to the public.
  - 2. Up to 60% of the required 20% of usable open space may be transferred across property lines and/or pooled to create larger open space areas within the City of

McDonough. (See Section 17.120.091.(C) Detached Open Space Standards.) In this event, the development and open space improvements shall be constructed concurrently.

3. When phasing of a Site Development Plan is involved, each phase must meet the 20% usable open space requirement. Subsequent phases shall not be built until the preceding phase's usable open space has been built and/or landscaped. Under no circumstances shall the applicant be allowed to defer providing and developing the required open space for each phase.

E. *Required Amenities for Usable Open Space by Project Size*

1. Projects <2 acres: Two (2) Amenities Required (Residential).

Projects less than 2 acres in size may incorporate any combination of open space elements to satisfy the 20% usable open space requirement. (See Table 1)

2. Projects 2 – 5 Acres: Three (3) Amenities Required.

- a. Residential: Projects 2-5 acres in size that are exclusively residential development shall incorporate a recreational area or playground with a minimum of 2,400 SF in size as part or all of their required amenities for usable open space. The amenities can also count toward an optional height bonus. (Table 1 for private open space standards.)

- b. Non-residential or Mixed Use: Projects 2-5 acres in size that are non-residential or mixed-use shall incorporate a publicly accessible plaza/patio/courtyard, amphitheater, or roof garden at least 1,500 SF in size. (See Table 1 for private open space standards.)

3. Projects greater than 5 Acres: (Three (3) Amenities plus one (1) amenity for every additional ten (10) acres and an additional story above three (3) stories in MR-75 or MU.

As part or all of their required usable open space, projects greater than 5 acres shall incorporate a publicly accessible plaza/ square/patio/ courtyard, or amphitheater a minimum of 10,000 SF in size. (Table 1 for private open space standards.)

4. A minimum of 40% of the required on-site usable open space shall be permeable to rainwater. This requirement may be met through landscape area, permeable paving, unpaved pedestrian walkways, etc. This area may be broken up on the site but shall remain accessible and intended for public use.
5. Any developed usable open space (i.e. plaza, amphitheater, playground, etc.) shall include a landscaped portion equal to a minimum of 40% of the on-site usable open space. A minimum of 60% of all developed open space shall be shaded from the summer sun with trees and/ or permanent or temporary shade structures.
6. All living material (i.e. plants, trees, etc.) shall be irrigated and chosen from the Native Plant List which is maintained on the Community Development Webpage.
7. Planting strips required as part of the streetscape standards shall not count toward the on-site open space requirement.
8. All open space amenities shall be privately owned and the responsibility of property

owners/developers for the cost of construction, ongoing maintenance, and liability. These costs may be privately funded through homeowner or merchants' associations. To be dedicated to the City for ongoing maintenance and liability responsibility, they must meet City standards and be acceptable to and accepted by the Mayor and City Council.

9. Any open space amenity as provided according to the criteria in Table 1 shall be counted toward the 20% usable open space requirement. Table 1 identifies whether each amenity is eligible for access by the public (i.e. civic open space), private only, or both.
10. For all non-residential or mixed-use projects, usable open space on-site shall be open and accessible to the general public, with the exception of balconies, porches, courtyards, roof decks, and community gardens.
  - a. Private open space accessible by the public and intended for public use is defined by this Plan as Civic Open Space. Such open space is privately owned, controlled, maintained, and managed. The property owner retains all property rights and responsibilities, including the rights to limit the hours of accessibility and enforce rules of conduct, dress, etiquette, etc.
  - b. All open space areas shall connect to public pedestrian walkways. If not easily identifiable from the abutting walkway, as determined by the Director, signage must be provided to direct the public.
  - c. A public access easement shall be granted to provide public access to private open space amenities.
  - d. Private open space amenities accessible to the public shall be marked with a sign with contact information for the party responsible for maintenance and liability. [This code for sign standards.]
11. Cultural Sites that are preserved shall count double their square footage toward the Usable Open Space requirements.
  - a. No historic structure, cultural resource, or a tree with a DPI over 30 inches shall be moved, altered, or defaced without approval of the Mayor and City Council.
  - b. All other archaeological sites shall be protected or mitigated by the City Zoning Code. Site treatment shall include preservation, avoidance, testing, or documentation of surface and/or subsurface remains and/or artifacts.
  - c. All historic structures, cultural resource and areas of significant natural beauty shall be protected by the City Zoning Code.
  - d. Development, trails, and recreation areas shall be set back at least 50 feet from or other sites with high archaeological, cultural or natural resource value as identified by Director. This setback may be counted as usable open space.
12. No more than fifty (50) percent of required open space may consist of floodplain, wetlands, steep slopes, streams and buffers.



## Section 17.120.082. Open Space Amenities

Open Space Type	Standards and Criteria	Access (Civic, Private, or Both)
i. <b>Amphitheatre</b>	<ul style="list-style-type: none"> <li>Size, scale, and architectural style shall complement adjacent development.</li> <li>Noise shall be governed by the City Noise Ordinance</li> <li>Hours of operation shall be assessed on a case-by-case basis.</li> </ul>	Both
ii. <b>Ancillary Structure</b>	<ul style="list-style-type: none"> <li>Clubhouse – minimum of 2000 sq ft.</li> <li>Pool Cabana – minimum 1200 sq ft.</li> <li>Gazebo – minimum 14 ft in width with a metal roof</li> <li>Picnic Ramada – minimum 150 sq ft. with a metal roof</li> <li>Picnic Pavilion – minimum 1500 sq ft. with a metal roof</li> </ul>	Both
iii. <b>Balcony</b>	<ul style="list-style-type: none"> <li>Balconies that are not flush shall be a minimum of 5 feet clear in depth and a minimum of 8 feet in width.</li> <li>Balconies may be semi-recessed or recessed.</li> </ul>	Private
iv. <b>Community Garden</b>	<ul style="list-style-type: none"> <li>The maximum garden size shall be 1 acre.</li> <li>To be considered for dedication to the City, community gardens shall be a minimum of 1 acre.</li> <li>Gardens may be enclosed by a fence on all open sides.</li> <li>Fences should be installed straight and plumb, with vertical supports at a minimum of 8' on center. Chicken wire may only be used in conjunction with pressure-treated wood and must be supported along all edges.</li> </ul> <p>Fencing Materials:</p> <ul style="list-style-type: none"> <li><u>Permitted</u>: pressure treated wood (must be painted or stained medium to dark color), chicken wire, or cross-buck rail.</li> <li><u>Not permitted</u>: chain link, barbed or razor wire, vinyl, un-painted/stained pressure treated wood, plywood</li> </ul>	Both
v. <b>Courtyard</b>	<ul style="list-style-type: none"> <li>Courtyards shall be surrounded on all sides by buildings with at least two (2) pedestrian connections to an adjoining building or public sidewalk.</li> <li>The courtyard shall be a minimum of 2,000 SF.</li> </ul>	Both

Open Space Type	Standards and Criteria	Access (Civic, Private, or Both)
v. <b>Courtyard</b> <i>Continued.</i>	<ul style="list-style-type: none"> <li>• Courtyards may be landscaped or a combination of softscape and hardscape. However, they shall contain amenities for residents such as seating, water features, etc.</li> <li>• The building(s) around a Courtyard is limited to thirty-five (35) feet or 3 stories whichever is less.</li> </ul>	Both
vi. <b>Dog Park</b>	<ul style="list-style-type: none"> <li>• A minimum of ½ acre to a maximum of 1 acre.</li> <li>• An outdoor dog watering station shall be provided with Director's approval.</li> <li>• A rail or crossbuck fence attached to a black, vinyl coated chain-link shall be provided.</li> <li>• Gates should be the same height as the fence and have hardware that allows them to lock, unlock, close, and latch securely. The main entrance for dogs should have a double-gate system.</li> <li>• Eight (8) foot driveway gate is required for maintenance equipment.</li> <li>• A minimum of two (2) Dog waste stations shall be provided and maintained by the property owner/HOA.</li> </ul>	Private
vii. <b>Forecourt</b>	<ul style="list-style-type: none"> <li>• A forecourt shall be surrounded on at least two sides by buildings.</li> <li>• A forecourt shall be a minimum of 2,000 SF.</li> <li>• A forecourt shall be generously landscaped with a variety of bedding plants and large pots containing annuals and shrubs.</li> <li>• Seating and shade covering at least 75% of the area shall be provided. Shade can be provided by the surrounding buildings, ancillary structures, or trees.</li> </ul>	Both
viii. <b>Outdoor Pavilion with Fireplace</b>	<ul style="list-style-type: none"> <li>• Rectangular shape with a minimum width of 16 ft and maximum area of 500 sq ft.</li> <li>• The fireplace shall be clad in brick or natural stone including the chimney.</li> <li>• The fireplace shall have a raised hearth with a minimum height of 18 inches.</li> <li>• Seating will be integrated into the structure along the outside edge and shall be constructed of brick or natural stone with a minimum height of 18 inches.</li> <li>• The roof shall be clad in metal, natural slate or roof tiles.</li> </ul>	Private

Open Space Type	Standards and Criteria	Access (Civic, Private, or Both)
ix. <b>Parks</b>	<ul style="list-style-type: none"> <li>• Parks shall be a minimum of two (2) acres in size, with slopes no greater than 5 to 1.</li> <li>• There shall be street frontage with on-street parking on at least 1 side or parking area featuring pervious pavement.</li> <li>• Seating and shade covering at least 75% of the area shall be provided. Shade can be provided by the surrounding buildings, ancillary structures, or trees.</li> <li>• Co-location of drainage facilities shall be evaluated on a case-by-case basis.</li> <li>• Parks shall be built to City Standards and Specifications.</li> </ul>	Both
x. <b>Playground</b>	<ul style="list-style-type: none"> <li>• Playgrounds shall be a minimum of 400 SF.</li> <li>• Shade covering at least 75% of the area shall be provided.</li> <li>• Playground equipment, seating, and design shall be reviewed and approved by the Director prior to construction.</li> </ul>	Both
xi. <b>Plaza</b>	<ul style="list-style-type: none"> <li>• Plazas shall be a minimum of 0.25 acre to a maximum of 1 acre.</li> <li>• Building frontages shall define these spaces. Plazas shall front on at least one (1) street, preferably at the intersection of important streets.</li> <li>• The landscape should consist primarily of hardscape. Casual seating, along with tables and chairs, should be provided.</li> </ul>	Both
xii. <b>Pocket Park</b>	<ul style="list-style-type: none"> <li>• Pocket Parks shall be a minimum of 2000 SF and maximum of 5000 SF.</li> <li>• Building frontages shall define these spaces. Plazas shall front on at least one (1) street, preferably at the intersection of important streets.</li> <li>• 75% of the area shall be shaded by trees or buildings.</li> <li>• The landscape should consist of hardscape. Casual seating, along with tables and chairs, should be provided and softscape.</li> </ul>	Both

Open Space Type	Standards and Criteria	Access (Civic, Private, or Both)
xiii. <b>Promenade</b>	<ul style="list-style-type: none"> <li>• Width: a minimum of fifteen (15) feet.</li> <li>• Paving: brick, concrete pavers, natural stone, decorative concrete, etc.</li> <li>• Hardscape: one style of bench or seating for the entire length.</li> <li>• Natural light and ventilation are an important aspect of the design if between buildings.</li> <li>• Sight lines: Clear sight lines help people navigate the space.</li> <li>• Softscape: Ample use of fragrant plants including trees, flowering shrubs, annuals, perennials, etc.</li> </ul>	Both
xiv. <b>Roof Garden or Roof Terrace</b>	<ul style="list-style-type: none"> <li>• A Roof Garden shall be at least 50% of the building roof area.</li> <li>• A Roof Terrace shall provide landscaping in the form of potted plants, seating, and other amenities for the users of the building.</li> <li>• A Roof Terrace may also include a portion of the roof as a green roof which may or may not have public access.</li> </ul>	Both
xv. <b>Square</b>	<ul style="list-style-type: none"> <li>• Squares shall be a minimum of 0.5 acres and a maximum of 2 acres</li> <li>• Shade covering at least 75% of the area shall be provided.</li> <li>• Building frontages shall define these spaces. Squares shall front on at least four (4) streets, preferably at the intersection of important streets. The landscape should consist of a maximum of 25% hardscape and 75% softscape (alive). The hardscape shall include benches and casual seating areas. The softscape shall include an ample use of fragrant plants including trees, flowering shrubs, annuals, perennials, etc.</li> </ul>	Both

## CHAPTER 17.140. WIRELESS TELECOMMUNICATIONS FACILITIES

### Section 17.140.010. Purpose, Intent and Objectives.

#### A. *Purpose:*

The purpose of this Section is to reasonably regulate, to the extent permitted under Georgia and federal law, the installations, operations, collocations, modifications, replacements and removals of wireless telecommunications facilities in the City of McDonough, recognizing the benefits of wireless communications while reasonably protecting other important City interests, including the public health, safety and welfare, aesthetics and local property values. These regulations are intended to establish reasonable standards and requirements for the siting of wireless telecommunications facilities, including wireless towers, antennas and accessory equipment. It is the intent of these regulations to promote the health, safety and general welfare of the citizens of the City of McDonough by establishing an orderly process for regulating the siting of wireless telecommunications facilities while balancing the need for adequate service levels. Therefore, the purposes of this Section are to establish standards for the safe provision of wireless communication services consistent with state and federal law; to minimize the adverse visual impact of wireless telecommunications facilities through proper design, site placement, height limitation and screening and thereby retain the residential and traditional character of the City and maintain property values; and to encourage the shared use of wireless telecommunications facilities. In furtherance of these purposes, the City shall consider the Comprehensive Plan and Future Land Use Map, the Zoning Map, existing land uses, and environmental, residential, historic and other sensitive areas in approving the location and siting of wireless telecommunications facilities.

#### B. *Intent.*

It is the intent of this Section to address the aesthetic effect of wireless telecommunications facilities on landscapes in the City, the visual impact of wireless telecommunications facilities on surrounding property owners, citizens' demands for these services, and the needs of service providers to close coverage gaps in service and provide greater capacity by implementing the following objectives:

1. Minimize the adverse aesthetic effects of wireless telecommunications facilities through appropriate design, screening and location standards;
2. Promote the siting of wireless telecommunications facilities in a manner such that potential adverse effects to the City and its residents are minimal in order to insure harmony and compatibility with surrounding land uses;
3. Promote the location of wireless telecommunications facilities in areas where the adverse impact on the community is minimal;
4. Promote the installation of wireless telecommunications facilities at locations where other such facilities already exist; and
5. Promote the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts.

C. Pursuant to federal and state law, including Section 704(a) of the Federal Telecommunications Act of 1996, it is not the intent of this section to:

1. Prohibit or have the effect of prohibiting the provision of personal wireless services in the City of McDonough;
2. Unreasonably discriminate among providers of functionally equivalent wireless communication services;
3. Regulate the placement, construction or modification of wireless telecommunications facilities on the basis of environmental effects of radio frequency ("RF") emissions where it is demonstrated that the wireless telecommunications facility complies or will comply with the applicable FCC regulations;
4. Prohibit, effectively prohibit or unreasonably delay collocations or modifications to existing wireless telecommunications facilities that the City is required to approve pursuant to federal and state law; or
5. Require the location or siting of wireless telecommunications facilities on City-owned public property.

#### **Section 17.140.020. Applicability.**

The provisions of this Section shall apply to all applications to install, place, site, locate, collocate or modify any new or existing wireless telecommunications facility within the City. The provisions of this Section are in addition to, and do not replace, any obligations a wireless telecommunications facility permit holder may have under any other permits issued by the City. Notwithstanding any other provision herein to the contrary, no wireless telecommunications facility may be installed, sited, located, collocated or modified within the public rights-of-way of the City. No person shall install, place, site, locate, or collocate a wireless telecommunications facility on any property, building or structure owned by the City without the City's separate and distinct agreement and conveyance of a property interest, such as an easement or license, to such party authorizing such use. Subject to the foregoing, the installation, placement, siting, location, or collocation of a wireless telecommunications facility on a City-owned property other than public right-of-way shall be exempt from regulation under this Section.

#### **Section 17.140.030. Definitions.**

A. *Defined terms.* When used in this Section, unless the context indicates otherwise, the following terms shall have the meanings set forth below:

*Accessory Equipment.* Any equipment serving or being used in conjunction with a wireless telecommunications facility, including, without limitation, utility equipment, power meters, power supplies, generators, batteries, cables, control boxes, and equipment cabinets, but excluding antennas, antenna arrays, antenna attachment devices, equipment shelters, storage sheds, antenna support structures and alternative support structures.

*Amateur Radio Antenna.* A radio communication facility operated for non-commercial purposes by an FCC-licensed amateur radio operator. The term "amateur radio antenna" shall include the antenna, electronic system and the structure it is affixed to for primary support.

*Antenna.* An apparatus, device or system of electrical conductors that transmits and/or receives electromagnetic waves, radio or other wireless signals used in the provision of all types of wireless communication services. Where the context permits, use of the term 'antenna' shall also refer to the antenna concealment enclosure when such concealment enclosure is required by the applicable design standards.

*Antenna Array.* A set of antennas and associated mounting hardware having transmission and/or reception elements extending in more than one direction or other similar appurtenances, which share a common attachment device such as a mounting frame or mounting support.

*Antenna Attachment Device.* Any pole, mount or device which attaches an antenna(s) or antenna array(s) to the roof or side of an existing building or other alternative support structure, such as an electrical transmission tower, light structure, utility pole, or other similar existing structure. Also referred to herein as a 'mount'.

*Antenna, Whip.* A slim, vertically oriented, omni-directional antenna.

*Attached Wireless Telecommunications Facility or Attached WTF.* An antenna or antenna array that is attached to an existing building, electrical transmission tower, light structure, utility pole or other alternative support structure with an antenna attachment device, together with accessory equipment, mounted on the roof of or within the subject building, to or within the structure or pole, or on or under the ground proximate to the subject building, structure or pole, as applicable. Attached WTF's for which an existing building serves as the alternative support structure are:

1. "Roof-mounted wireless telecommunications facility" - antenna(s) attached with antenna attachment device(s) to the roof of an existing building; and
2. "Building-mounted wireless telecommunications facility" - antenna(s) mounted on the side of an existing building.

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

*Broadband services.* A fixed or mobile wireless terrestrial service that consists of the capability to transmit at a rate of not less than 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction to end users and in combination with such service provides: (a) access to the internet; or (b) computer processing, information storage, or protocol conversion.

*Building-Concealed Wireless Telecommunications Facility.* An attached wireless telecommunications facility designed and constructed as an existing architectural feature of an existing building in a manner such that the WTF is not discernible from the remainder of the building and is completely enclosed within the architectural feature. Building-Concealed WTF's function as replacements of existing architectural features of a building that extend vertically above the roof of the building in order to position antennas at a greater height. Building architectural features employed as building-concealed WTF's include, but are not limited to steeples, church spires, clock towers, bell towers and cupolas. The term "building-

concealed wireless telecommunications facility" does not include in-building antennas and other wireless transmission equipment that are exempt from the permitting requirements of this Section.

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

*Collocation.* The placement or installation of new wireless transmission equipment on a previously approved and constructed wireless tower or support structure on which there is an existing antenna in a manner that negates the need to construct a new freestanding support structure.

*Concealed.* The classification of a wireless telecommunications facility that is disguised, hidden, integrated as or as part of an existing or proposed structure, or placed and enclosed within an existing or proposed structure, and camouflaged and designed to be aesthetically compatible with existing and proposed building(s), structures, uses, and other site features, including natural and architectural features, located on the site and nearby properties, such that it is not readily identifiable as a wireless telecommunication facility by a casual observer, its presence is not apparent to a casual observer, or it is otherwise minimally visible to the casual observer in accordance with such other prescribed standard of visibility. A concealed WTF (i) is integrated as an architectural feature of an existing building such as a cupola; (ii) uses a design which mimics and is consistent with nearby natural, architectural or site features and is integrated as such a feature, such as a flagpole; or (iii) is attached to and, through the use of concealment techniques, is incorporated as part of an existing non-tower structure, such as utility poles or light structures. "Concealed" also refers to the effective employment of the foregoing design techniques in such a manner as to render a wireless telecommunications facility, or certain components or aspects thereof, minimally visible to the casual observer pursuant to a prescribed standard of visibility. The standard of visibility of a concealed WTF may be further prescribed by other guidelines, standards and regulations applicable to the subject type of WTF.

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

*DAS Hub.* An equipment shelter containing accessory equipment utilized in the deployment and operation of wireless DAS receive/transmit infrastructure that is located elsewhere, but typically does not have any DAS antennas located at such site.

*Distributed Antenna System or DAS.* A network of one or more antennas and related fiber optic nodes typically mounted to existing or proposed non-tower structures, such as utility poles or light structures. A DAS system typically consists of: (1) a number of remote communications nodes deployed throughout a certain coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site (DAS hub); and (3) radio transceivers located at the hub site, rather than at each individual node (as is the case for small cells) to



process or control the communications signals transmitted and received through the antennas. A DAS installation may be considered an attached WTF or concealed freestanding support structure for purposes of these regulations.

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

*Equipment cabinet.* A cabinet, enclosure, pedestal, or other similar fixture that is used in association with a WTF to house or contain accessory equipment necessary for the transmission or reception of wireless communication signals. Also referred to as "equipment enclosure."

*Equipment compound.* A fenced area surrounding equipment shelters, equipment cabinets, storage sheds, and other ground-mounted wireless transmission equipment, and, if applicable, the framework (or base) of a wireless tower or stealth tower.

*Equipment shelter.* A small building, shed or similar structure that that is used in association with a WTF to shelter, store or house equipment cabinets and accessory equipment necessary for the transmission or reception of wireless communication signals.

*FCC.* The Federal Communications Commission.

*Flush-mounted.* The attachment of an antenna, equipment cabinet or other accessory equipment to the exterior (side) of an antenna support structure or alternative support structure (e.g., building, utility pole, or light structure) in a manner such that there is no visual separation between the support structure and wireless transmission equipment at the point of attachment or such that the wireless transmission equipment remains in close proximity, abreast and generally parallel to the exterior surface of the support structure, as applicable. Where a maximum distance related to such mounting is given, such distance shall be measured from the existing appurtenant edge of the antenna support structure or alternative support structure to the outside edge of the antenna or accessory equipment, as applicable. Unless otherwise prescribed, where no distance related to the flush-mounting of accessory equipment is given or where flush-mounting is required to be provided such that there is no visual horizontal separation, the accessory equipment or antenna, as applicable, shall appear to a casual observer to be in direct contact with the exterior surface of the support structure. When an antenna housed within an antenna concealment enclosure is expressly allowed to be flush mounted to the top of a utility pole, light standard, or similar structure, there shall be no vertical separation between the utility pole and antenna concealment enclosure at the point of attachment, and the circumference of the antenna concealment enclosure shall be consistent with the subject structure's circumference at the point of attachment.

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

*Modification or modify.* The improvement, upgrade, expansion, or replacement of existing wireless telecommunications facilities, including the installation or replacement of wireless transmission equipment associated with an existing wireless telecommunications facility.

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

*OTARD antennas.* Antennas covered by the "Over-the-Air Reception Devices" rule in 47 C.F.R. § 1.4000 et seq. as may be amended or replaced from time to time.

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

*Public Right-of-Way.* A strip of land over which the City or the State has designated a right of use as a street, road, public thoroughfare or sidewalk for vehicular and/or pedestrian traffic.

*Radio Frequency Engineer.* An engineer with specialized training and/or experience in (i) the analysis and development of wireless telecommunications facilities and networks and (ii) electrical or microwave engineering, especially the study of radio frequencies.

*Radome.* A visually opaque, radio frequency transparent enclosure which may contain one or more antennas, cables, and related accessory equipment therein.

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

*Residential.* Pertaining to the use of land, means premises such as homes, townhomes, patio homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for occupancy as a residence and which are designed primarily for living, sleeping, cooking, and eating therein.

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

*Screening or [to] screen.* The use of design, existing buildings and structures, existing and proposed vegetation, foliage, and landscaping, existing and proposed man-made or natural site features, and color to obscure a wireless telecommunications facility.

*Siting or [to] site.* The method and form of placement of a wireless telecommunications facility on a specific area of a property.

*Small Cell Facility or Small Wireless Facility.* A miniaturized, low power mobile radio service wireless telecommunication facility used to provide targeted capacity or service coverage. Small cell facilities are often employed to provide increased capacity in high call-demand areas or to improve service coverage to weak areas.

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

*Stealth Tower.* A freestanding antenna support structure, together with attached wireless transmission equipment, designed with camouflaging methods that render the wireless telecommunications facility more visually appealing and compatible with the surrounding area and blend the wireless telecommunications facility into an existing visual backdrop. Through the use of structural designs and other camouflaging techniques that are compatible with the natural setting and surrounding structures, stealth towers, such as monopines (or other man-made trees) and unipoles (or slick sticks), are designed to blend into an existing visual backdrop and render the wireless telecommunications facility more visually appealing so as to make the facility less recognizable to the casual observer and reduce or mitigate the facility's potential adverse visual impacts on the surrounding area.

*Structure, Historic.* A building or structure which has been formally designated as a historic property, building or structure as designated by the Georgia Historic Preservation Division of the Department of Natural Resources, the United States Department of the Interior, or the City Council, or which has sufficient historic merit so as to be listed as a contributing historic building on the City's Historic Resources Inventory.

*Support Structure.* Any structure on which one or more antennas may be mounted. The term 'support structure' is inclusive of 'alternative support structure' and 'antenna support structure'.

*Support Structure, Alternative.* An existing structure that is not primarily constructed or designed for the purpose of supporting antennas, but on which one or more antennas may be mounted. Alternative support structures include, but are not limited to, buildings (which may serve as alternative support structures for roof-mounted WTF's, building-mounted WTF's, and building-concealed WTF's), utility poles, light structures, and electrical transmission towers. Alternative support structures have a primary, obvious function other than that of a WTF, and may be concealed or non-concealed.

*Support Structure, Antenna.* A structure constructed and designed to support antenna(s), antenna array(s), and certain accessory equipment for the primary purpose of accommodating antennas at a desired height, such as a wireless tower, stealth tower or concealed freestanding support structure.

*Support Structure, Concealed Freestanding.* A clock tower, campanile, freestanding steeple, or other similarly designed freestanding support structure that conceals antennas as an architectural feature, or an alternatively designed freestanding antenna support structure that mimics or also serves as a common site feature, such as a flagpole or light structure, and in which the antenna, and the accessory

equipment, are completely hidden from view. Concealed freestanding support structures designed as flagpoles or light standards are referred to herein as "faux flagpoles" or "faux light standards", respectively. Concealed freestanding support structures are designed to be aesthetically compatible with existing uses, building(s), and site features located on the site and nearby properties, such that they are not identifiable or recognizable to the casual observer as a wireless telecommunication facility in order to substantially reduce the facility's potential adverse visual impacts on the surrounding areas. Antenna support structures utilizing concealment elements but which are obviously not such a natural, architectural or site feature so as to render it unidentifiable or unrecognizable as a WTF to the casual observer, such as monopines, and other stealth towers, are not 'concealed freestanding support structures,' provided, however, a unipole or slick-stick that is substantially similar in size, height, diameter and color as utility poles, light poles or other similar site features on the site and nearby properties, may be considered a 'concealed freestanding support structure.'

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

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

*Unipole.* A uniformly tapered pole with one or more antennas and associated equipment and cables contained within the interior of the pole, and with a radome located at the top of the pole being the same width as the pole at the point of attachment.

*Utility Pole.* An existing pole or structure owned or operated and in active use by a public utility, electric membership corporation or electric cooperative that is specifically designed and used to carry lines, cables, or wires for electricity, telephone, or cable television. A "utility pole" does not include streetlight or light structures, light poles, lamp posts, and other structures primarily designed and used to provide lighting. "Utility pole" includes electrical transmission structures or poles used to support lower voltage overhead electrical transmission lines but does not include "electrical transmission towers."

*Wireless Carrier or Carrier.* An entity that provides 'personal wireless services' as defined in 47 U.S.C. §332.

*Wireless Communications Services.* Wireless radio, data and/or telecommunications services, including cellular, telephone, television, microwave, analog, and digital services, 'personal wireless services' as defined in 47 U.S.C. § 332, personal communication services, wireless broadband services, wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies, wireless utility monitoring and control services, and any other FCC licensed or authorized communications service transmitted over frequencies in the electromagnetic spectrum.

*Wireless Telecommunications Facility or WTF.* Any facility designed or intended to be used for transmitting or receiving electromagnetic waves, radio or other wireless signals or to otherwise provide wireless communications services, and usually

consisting of wireless transmission equipment, including antenna(s) and accessory equipment, mounted to or supported by a wireless tower, antenna support structure, or alternative support structure. The following nonexclusive list shall be considered a wireless telecommunications facility: new, existing, and replacement wireless towers or other antenna support structures, wireless transmission equipment collocated on existing wireless towers or support structures, attached wireless telecommunications facilities, and small wireless facilities. Also referred to herein as a "wireless facility."

*Wireless Tower.* A freestanding antenna support structure that is designed and constructed for the sole or primary purpose of supporting one or more antennas, antenna array(s), and other wireless transmission equipment, including non-concealed wireless towers, such as lattice towers, guy towers and monopoles, and stealth towers. The term includes, without limitation, tower structures that are constructed to provide wireless communications services, radio and television transmission towers, microwave towers, common carrier towers, cellular (cell) and digital telephone towers and the like.

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

B. *Construction of Certain Words and Phrases.* For the purposes of this Section, the following rules shall govern the construction of the respective words and phrases used herein:

1. Measurement of Height. Unless otherwise expressly provided in this Section, height shall be measured as follows:
  - a. Antenna Support Structure: The height of an antenna support structure (i.e., wireless tower, stealth tower or concealed freestanding support structure) shall be measured as the vertical distance from the average finished grade adjacent to the perimeter of the base of [the] antenna support structure to the highest point of the antenna support structure, including any antenna or other wireless transmission equipment mounted thereto.
  - b. Alternative Support Structure: The height of an alternative support structure other than a building (i.e., utility pole, light structure or electrical transmission tower) shall be measured as the vertical distance from the adjacent finished grade to the highest point of the alternative support structure, including any antenna or other wireless transmission equipment mounted thereto.
  - c. Building: The height of a building shall be measured in the same manner as provided for "Building Height" in Section 17.08.020 of this Code.
  - d. Roof-Mounted Wireless Telecommunications Facility: The height of a roof-mounted WTF shall be measured as the vertical distance from the existing roof surface of the building (at the location where the antenna attachment device or

mount is affixed) to the highest point of the roof-mounted wireless telecommunications facility, including any antenna positioned for operation. The height of accessory equipment, new architectural features, concealment enclosures or other approved screening features installed on the roof in association with the WTF shall be measured as the vertical distance from the existing roof surface of the building (at or below the location where such accessory equipment or screening features are affixed) to the highest point of such equipment or screening feature.

- e. Ground-Mounted Equipment Cabinets: The height of a ground-mounted equipment cabinet shall be measured as the vertical distance from the adjacent finished grade to the highest point of the equipment cabinet or related concealment enclosure.
2. Measurement of Volume. Volume is a measure of the exterior displacement, not the interior volume of the enclosures. The measurements used to calculate the volume of an imaginary enclosure shall be based on the dimensions of rectangular cubes within which the antenna and its mount fit.
3. Visibility. Unless otherwise expressly provided in this Section, the visibility of a wireless telecommunications facility or wireless transmission equipment is based on the viewpoint of a casual observer, who is a person of ordinary sensibilities and intelligence, at ground level from the locations specified within this Section. A wireless telecommunications facility (or wireless transmission equipment) is "visible" when its location or the manner in which it is sited is such that it is likely to be seen by a casual observer or its size, height, shape, color or material contrasts with other objects or features in the surrounding setting such that it is likely to be seen by a casual observer. A wireless telecommunications facility (or wireless transmission equipment) is "plainly visible" when the same stands out as an obvious or noticeable feature within its setting. A wireless telecommunications facility is "identifiable" when it is likely to be seen and recognized by a casual observer as a wireless telecommunications facility or something other than the structure or feature that it is designed to mimic.
4. Adjacent Property. An "adjacent property" shall refer to other properties that are contiguous to the subject property or which are only separated from the subject property by right-of-way.
5. DAS and Small Cell Facilities. References to DAS, small cell facilities or small wireless technologies, or to antennas, repeaters, equipment cabinets/pedestals, and other accessory equipment associated therewith, are intended to refer to wireless telecommunications facilities or wireless transmission equipment that are physically much smaller and less visible and can be placed at much lower elevations than macrocell antennas and accessory equipment, such that they can be more easily deployed with concealment enclosures and other concealment elements that blend with the non-tower support structure on or within which they are installed. The use of the terms "DAS", "small cell facility", or "small wireless technologies" herein is for the purpose of generally describing in prevailing industry terminology the type of wireless transmission equipment (in terms of its size, scale, design and feasibility for location on alternative support structures or concealed freestanding

support structures) that is allowed for the subject type of wireless telecommunications facility. Such terms are used for the purpose of regulating the design standards of wireless telecommunications facilities in order to limit the aesthetic impact of such facilities. The use of such terms is not intended to regulate the technological or operational aspects of wireless transmission equipment.

#### **Section 17.140.040. Permits and Applications.**

- A. *Wireless Telecommunications Facility Permit Required.* No wireless telecommunications facility shall be installed, placed, sited, located, collocated or modified without the issuance of a permit from the City in accordance with the provisions hereof, subject to certain exemptions set forth herein (a permit to install, place, site, locate, collocate or modify a wireless telecommunications facility, whether an administrative permit or a conditional use permit, is also referred to herein as a "WTF permit"). A WTF permit shall be required for each wireless telecommunications facility installation site. The complete removal of a wireless telecommunications facility shall not require a permit under this Section; however, removal must be performed in strict compliance with this Section and other applicable law.
1. Administrative Permits. Applications requesting administrative approval to install, place, site, locate, collocate or modify a wireless telecommunications facility shall be subject to the approval of the Director, as further set forth herein. Subject to compliance with the regulations provided herein, the following types of wireless telecommunications facilities are authorized by administrative permit:
    - a. Concealed Attached Wireless Telecommunications Facilities;
      - 1) Concealed Roof-Mounted WTF's;
      - 2) Concealed Building-Mounted WTF's;
      - 3) Building-Concealed WTF's;
      - 4) Concealed Attached WTF's Mounted to Utility Poles; and
      - 5) Concealed Attached WTF's Mounted to Light Structures;
    - b. Attached WTF's Mounted to Electrical Transmission Towers; and
    - c. Concealed Freestanding Support Structures.
  2. Conditional Use Permits. Unless authorized by administrative permit or expressly exempted from the WTF permit requirement, all other applications to install, place, site, locate, collocate or modify a wireless telecommunications facility shall be subject to the approval of a conditional use permit by the Mayor and City Council, as further set forth herein.
- B. *Pre-Application Review.* Prior to the submission of an application for a WTF permit, a person seeking to install or locate a new wireless telecommunications facility is strongly encouraged to have a voluntary pre-application meeting with the Director, to review preliminary documents and graphic exhibits of the proposed WTF and discuss the application, location and design requirements for the proposed WTF. The primary purposes of the review are to streamline applications and reduce site plan and design revisions, as well as the multiple reviews associated therewith.

- C. *Application for Wireless Telecommunications Facility Permit.* Any person desiring to obtain a permit to install, place, site, locate, collocate or modify a wireless telecommunications facility shall make application to the Community Development Department. All applications for a WTF permit shall be reviewed by the Community Development Department. The submittal of an application for a WTF permit does not authorize the installation, location, collocation, modification or operation of the wireless telecommunication facility.
- D. *Application Contents.* An application to install, site, locate, collocate or modify a wireless communication facility shall be made on a form(s) prepared by the Community Development Department. The Community Development Director is authorized to prepare application forms and may develop application forms that distinguish between different types of wireless telecommunications facilities, installations, collocations and modifications in order to streamline the processing of certain applications and to comply with legal requirements. An applicant for a wireless telecommunications facility permit (or such other approvals required herein) shall include such information and documents required by the subject application form, which shall generally include, but not be limited to, the information the Mayor and City Council requires for a planning and zoning decision, as well as the following:
1. Project Description: A written project description for the proposed wireless telecommunications facility that includes, but is not limited to, a general description of the existing land use setting, existing site features, the type of WTF proposed, visibility from public rights-of-way and properties with 'For-Sale' dwelling uses, concealment elements and other design features, on and off-site access, landscaping, and other components of the facility; the project description shall also provide the additional authorizations required for the installation, collocation or modification, and describe the steps that applicant has taken to comply with this Section;
  2. Written Narrative: A written and technically accurate and reliable narrative that explains the nature of the permit sought (new installation, collocation, or modification of an existing WTF) and that further states whether the applicant believes (and the basis therefor) that the WTF is subject to: (a) the provisions of 47 U.S.C. section 332(c)(7), and if so, who the entity is that will be providing personal wireless services; (b) O.C.G.A. § 36-66B-1, et seq. (the BILD Act), and if so, why its proposal fits each and every criteria set forth therein; and/or (c) 47 U.S.C. § 1455(a), and if so, why its proposal fits each and every criteria for a Section 6409(a);
  3. Property Owner Authorization: A letter of authorization from the property owner(s), including, to the extent allowed by law, the owner of any existing support structure for any proposed attached WTF or collocation, that demonstrates knowledge and acceptance of the applicant's proposed wireless telecommunications facility and use on the subject property;
  4. WTF Owner/Operator and Wireless Provider/Carrier: The name of the respective parties that will own, operate and be responsible for the maintenance of the proposed WTF and the name of the wireless provider and/or carrier that such WTF will serve;
  5. Photo Simulations and Visual Impact Analysis: (a) Photo simulations of the WTF, which show the proposed facility from at least four (4) directions within the



surrounding area and depict the visibility of WTF from public right-of-way and other properties zoned or used for 'For-Sale' dwelling use (the photo simulations shall include "before" and "after" renderings of the site, its surroundings, the proposed WTF and antennas at maximum height, and any other structures, vegetation, or topography that will conceal or screen the proposed WTF from visibility), (b) detailed drawings or renderings of the proposed WTF, which further provide the manner in which the proposed facility will be enclosed, camouflaged, screened, and/or obscured to meet the visibility requirements set forth herein, and (c) such other visual information, as necessary, to determine the visual impact of the proposed wireless telecommunications facility on the existing setting or to determine compliance with design standards established herein;

6. Site Plan and Design Specifications. Written explanation, drawings and scaled site plan providing the following:
    - a. Description of the WTF's components and design (including dimensions, colors, and materials), including accessory equipment, equipment cabinets, and the number, direction, and type of antennas;
    - b. The location and dimensions of the entire site area and the exact location of the support structure, ground-mounted wireless transmission equipment and equipment compound (if applicable) with proposed setbacks, buffers, access road improvements, and any proposed landscaping or other development or site features;
    - c. Front, side, and rear elevation plans showing the proposed WTF, including the support structure, antennas, accessory equipment, and all ground-mounted wireless transmission equipment;
    - d. Manufacturer specifications, schematics, renderings, and illustrations of the proposed design of the WTF, including, but not limited to, samples of colors and materials of any proposed concealment elements; and
    - e. Land uses and zoning designations or adjacent properties;
  7. Certification from a professional civil and/or structural engineer (licensed in the State of Georgia) that the proposed antenna attachment device, antenna support structure and/or alternative support structure meet the applicable design standards for wind loads and have structural integrity to accommodate the proposed use;
  8. Such additional information is necessary for review to confirm compliance with the design requirements set forth herein, as reasonably determined and requested by the Director; and
  9. Payment of the application and review fee as established from time to time by resolution of the Mayor and City Council or, to the extent authorized, by the Director.
- E. *Appeals.* Notwithstanding any other provision of the UDC or City Code to the contrary, appeals of administrative decisions or determinations of the Director regarding wireless telecommunications facilities, including denials of WTF permits and alleged errors in the enforcement or interpretation of the meaning of the provisions of this Section, shall not be taken to or heard by the Board of Appeals. The appeal of a written

administrative decision of the Director, including the denial of a WTF permit, may be appealed to the Mayor and City Council. Any such appeal must be filed with the Director within thirty (30) days of the date of the written decision being appealed. Failure to timely file such an appeal shall render the decision as a final decision. The decision of the Mayor and City Council in regard to a timely-filed appeal, as well as all other decisions of the Mayor and City Council pursuant to this Section, shall be final. The provisions of this Paragraph shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City or any decision related thereto.

#### **Section 17.140.050. General Regulations Applicable To Wireless Telecommunications Facilities.**

The regulations set forth in this section apply to all wireless telecommunications facilities; provided, however, to the extent additional, conflicting or more detailed requirements are provided for specific types of wireless telecommunication facility in other subsections of this Section 17.140.000, such specific requirements and design standards shall govern.

- A. The wireless telecommunications facility shall comply with all applicable federal, state and local laws, statutes, regulations, rules and ordinances, including, but not limited to, building and safety codes. Wireless telecommunications facilities which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
- B. Wireless telecommunications facilities shall not be artificially lit except as follows:
  - 1. When required by the FCC or Federal Aviation Administration (FAA);
  - 2. Where such lighting currently exists on an alternative support structure, such as a light structure or utility pole;
  - 3. Where such lighting is required to assure human safety or protect the public health, safety or welfare as required or approved by the Director of Community Development or the Mayor and City Council, as applicable; or
  - 4. Where such lighting is approved as part of the design for a concealed attached WTF or concealed freestanding support structure, such as a faux light structure.
- C. Wireless telecommunications facilities shall be designed and constructed to ensure that the structural failure or collapse of the antenna support structure or antenna attachment device will not create a safety hazard to adjoining properties, according to applicable Federal regulations and standards which may be amended from time to time.
- D. Wireless telecommunications facilities shall not contain any signs for the purpose of commercial advertising; provided however, signs necessary to identify site identification or ASR (antenna structure registration) number, the owner, the party responsible for the operation and maintenance (including address and telephone number), to warn of danger, and to comply with applicable federal regulations are permitted. Such signage shall be limited to the smallest face area possible to be visible and legible at ground level.
- E. A wireless telecommunications facility, including any antenna or antenna array, that ceases operation for a period of twelve (12) consecutive months shall be determined to have been abandoned and shall be removed within ninety (90) days of such

abandonment at the property owner's expense. It shall be the duty of both the property owner and the owner of the wireless telecommunications facility to notify the City in writing of any intent to abandon the use of the facility.

- F. A wireless telecommunications facility, including the antenna support structure, alternative support structure, and/or antenna attachment device, shall meet the applicable design standards for wind loads and have sufficient structural integrity to accommodate the proposed use, as certified by a professional engineer (licensed in the State of Georgia).
- G. Wireless telecommunications facilities shall not be located in a 100-year flood plain or delineated wetlands. Notwithstanding the foregoing, a wireless telecommunications facility may be located in the 100-year floodplain if all accessory equipment can be located above the 100-year flood level, subject to such wireless telecommunications facility's compliance with any and all other City ordinances, regulations and/or rules related to floodplain management, flood damage prevention, and flood hazard reduction.

#### **Section 17.140.060. Regulations For Wireless Telecommunications Facilities Authorized By Administrative Permit.**

The guidelines, standards and regulations set forth in this section regulate the location, siting, and design of wireless telecommunications facilities authorized by administrative permit. This Subsection shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City, including, but not limited to, any request to install, place, site, or locate an attached wireless telecommunications facility on any electrical transmission tower, utility pole or light structure located within or upon any public right-of-way in the City.

##### **A. *General Guidelines and Considerations for WTF's Authorized by Administrative Permit.***

1. Compatibility with the Existing Setting; Aesthetics; Visibility. To ensure the compatibility with surrounding properties and to protect the aesthetics and character of the City, particularly districts and properties zoned or used for 'For-Sale' dwelling uses, corridors of influence, and public places, all wireless telecommunications facilities subject to administrative approval shall be located, sited and designed so as to be compatible with the existing setting, to minimize the aesthetic and visual impact on surrounding properties, and to maintain the character and appearance of the subject area of the City, as further provided below.
  - a. Location and Siting: WTF's shall be located in areas where existing topography, vegetation, buildings, structures or other site features are available to screen, obscure and/or camouflage the proposed facility, and sited in a manner that utilizes such existing features to effectively screen, hide, and/or camouflage the proposed WTF. WTF's shall be located, sited and otherwise configured in a manner that minimizes adverse effects to the existing landscape and character of the subject area, with specific considerations given to the land uses, architectural design of buildings, and quality of development existing on or planned for the subject and surrounding properties.

- b. Design: WTF's shall be designed (in terms of size, scale, height, shape, style, color, texture, and materials) to blend in with the existing topography, vegetation, buildings, and structures on the project site as well as its existing setting. WTF's shall employ a design that is in harmony with the surrounding area in terms of size, mass, visual and physical impact, and that minimizes adverse aesthetic effects to surrounding properties, with specific design considerations as to the height, scale, color, texture, and architectural design of existing buildings, structures and other features located on the subject lot and surrounding properties. Further, the design of a WTF in terms of its size and scale shall consider the required screening of the WTF, including whether the size and scale of concealment enclosures or installed screening elements would create a greater visual impact than the WTF itself or otherwise not meet applicable screening, concealment or visibility standards. The colors and materials of a WTF shall blend into the predominant visual backdrop or the structure on which it is located and be compatible with existing screening features and/or proposed screening elements.
  - c. Screening: WTF's shall be screened through the use of existing buildings and structures, existing and proposed vegetation/landscaping, and/or installed site features. Proposed site features shall comply with any and all other applicable provisions or requirements set forth in the Code governing the location and design of the subject site feature. Proposed vegetation/landscaping must be approved by the Director.
2. Concealment Design Requirements. Except as otherwise expressly provided herein, all wireless telecommunications facilities authorized by administrative permit shall be designed as a concealed WTF. Certain types of attached WTF's may only require partial concealment, such that the applicable design standards and requirements require that certain components of the WTF be fully concealed, such as antenna(s) or certain accessory equipment, while other components of the WTF are required to comply with a less restrictive standard or requirement, provided the overall design of the WTF meets the subject standard of visibility. Subject to and in accordance with the design standards and requirements applicable to the attached WTF, partially concealed antennas are allowed on certain utility poles and certain buildings, and non-concealed antennas are only allowed on certain electrical transmission towers.
3. General Location and Design Standards for Ground-Mounted Equipment Cabinets. Ground-mounted equipment cabinets shall be located in the rear or side yard or other areas of a property where existing topography, vegetation, buildings, structures or other site features are available to screen, hide, and/or camouflage the equipment cabinet(s). Except as otherwise expressly permitted or restricted pursuant to the specific design standards and requirements set forth in other Paragraphs of this Code applicable to the subject type of WTF, ground-mounted equipment cabinets shall be hidden and/or screened from visibility from public rights-of-way and adjacent properties with a 'For-Sale' dwelling use in a manner that meets the prescribed standard of visibility applicable to the WTF. Ground-mounted equipment cabinets shall be screened through the use of existing buildings, structures or site features or existing or proposed vegetation or

landscaping. When further required to provide sufficient screening, site features, such as fences, walls or other similar screening features, that are compatible with the design (in terms of size, scale, shape, color, texture, and materials) of other existing site features and the style of architecture on the subject property and surrounding properties may be installed. Proposed site features shall comply with any and all other applicable provisions and requirements set forth in the UDC governing the location and design of the subject site feature. Unless sufficiently screened through the use of the foregoing techniques, ground-mounted equipment cabinets shall be painted, colored and textured or located within concealment enclosures designed to blend into the predominant visual backdrop. When a ground-mounted equipment cabinet cannot be located in accordance with the foregoing standards, such equipment shall be located in a flush-to-grade underground vault enclosure with flush-to-grade vents, or vents that extend no more than twenty-four (24) inches above the finished grade, screened from view from public right-of-way. Where an equipment compound is permitted for the subject type of WTF pursuant to the applicable design standards and requirements further set forth in this Section 17.140.060, such equipment shall be enclosed by fencing not less than six (6) feet in height. Except where access to the equipment compound is provided, a minimum ten-foot (10') wide landscape strip planted to buffer standards, as set forth in Article II of this Code, shall be required on the exterior of all sides of the fence surrounding the equipment compound as a vegetative screen unless the City Arborist determines that existing plant materials are adequate, or other existing site features fully screen the equipment from visibility. Such landscape strip shall be maintained in accordance with the landscape standards of this Code. Fences shall comply with other applicable regulations of this Code which are not in conflict with this Section. Unless otherwise expressly provided herein, ground-mounted equipment cabinets and equipment compounds are subject to the setback requirements of the zoning district in which they are located. The foregoing standards and requirements regulating the location and design of ground-mounted equipment cabinets are intended to supplement the general guidelines and considerations set forth in the preceding subparagraphs of this Paragraph A, as well as the specific design standards and requirements set forth in other Paragraphs of this Section 17.140.60 governing the subject type of WTF.

4. Exemptions from Certain Design Requirements. When buffers are provided on the subject lot and the proposed WTF is located, sited and otherwise designed such that the WTF as proposed, and following a 6409(a) modification or as a result of future development on the subject lot, is not and would not be visible from any other lot or any public right-of-way within the City, an application for an administrative WTF permit shall be approved by the Director without requiring the WTF to fully comply with other design standards and requirements applicable to the subject type of WTF.

*B. Standards for Approval.*

1. Administrative Approval. An application for wireless telecommunications facility authorized by administrative permit shall be approved by the Director whenever the Director determines that the proposed wireless telecommunication facility comports with applicable guidelines and fully complies with all regulations,

standards and requirements applicable to the subject WTF. Compliance with the minimum requirements further set forth herein (i.e., requirements expressed in specific quantitative values, such as maximum height or antenna volume requirements) does not alone confer a right to issuance of an administrative permit; rather, a proposed wireless telecommunications facility must fully comply with all applicable regulations, standards and requirements, as determined by the Director after consideration of the guidelines, factors for consideration and criteria set forth in this Section 17.140.060.

2. Criteria for Evaluating Visual Compatibility and Compliance with Standard of Concealment/Visibility. The general guidelines and factors for consideration set forth in this section shall be considered by the Director when evaluating whether the proposed wireless telecommunications facility complies with the location, siting, and design standards and requirements applicable to the subject type of WTF. In addition to the aforementioned guidelines and factors for consideration, the following criteria shall be considered by the Director when evaluating and determining whether the proposed wireless telecommunications facility is visually or aesthetically compatible and whether the WTF meets the applicable standard of concealment or visibility:
  - a. Blending: Whether and the extent to which the proposed WTF blends into the surrounding environment, is architecturally compatible with existing buildings and structures, and is integrated into the predominant visual backdrop;
  - b. Screening: Whether and the extent to which the proposed WTF is concealed or screened by existing or proposed topography, vegetation, buildings or other structures, including architectural features or site features located or proposed to be located thereon;
  - c. Size and Height: Whether and the extent to which the size and height of the proposed WTF is compatible with surrounding buildings and structures; and
  - d. Location/Siting: Whether and the extent to which the proposed WTF is located and sited so as to utilize existing natural or manmade features in the vicinity of the WTF, including topography, vegetation, buildings, or other structures, to provide the greatest amount of visual screening and blending with the predominant visual backdrop.

C. *Concealed Roof-Mounted and Building-Mounted Wireless Telecommunications Facilities.* The following regulations, standards and requirements govern the location, siting, and design of roof-mounted and building-mounted wireless telecommunications facilities.

1. Allowed Districts with Administrative Permit: C-1, C-2, C-3, OI, M-1, M-2, MR-75\* and MU\*

\*The MR-75 and MU districts are subject to the following conditions:

- a. MR-75 zoned properties. In the MR-75 district, concealed roof-mounted and building-mounted wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for a 'For-Rent' dwelling building (apartment) use.

- b. MU zoned properties. In the MU district, concealed roof-mounted and building-mounted wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for an industrial, commercial, office or 'For-Rent' dwelling building (apartment) use.
- 2. Standards and Requirements Applicable to Concealed Roof-Mounted and Building-Mounted Wireless Telecommunications Facilities:
  - a. Setback. Concealed roof-mounted and building-mounted wireless telecommunications facilities are subject to the setback requirements of the zoning district in which they are located.
  - b. General Concealment Elements. The antennas and roof-mounted accessory equipment of concealed roof-mounted and building-mounted wireless telecommunications facilities shall be concealed, camouflaged, screened, and/or obscured by, within or behind existing or proposed architectural features or concealment enclosures in such a manner so as to not be identifiable as a wireless telecommunications facility or visible from public rights-of-way and adjacent properties with 'For-Sale' dwelling uses; provided, however, the antenna(s) of a concealed roof-mounted wireless telecommunications facility located on an existing building that is thirty-five (35) feet in height or greater, shall be concealed, camouflaged, screened, and/or obscured by, within or behind existing or proposed architectural features or otherwise sited and designed in such a manner so as to not be readily identifiable as a wireless telecommunications facility or plainly visible from public rights-of-way and adjacent properties with 'For-Sale' dwelling uses. Wireless transmission equipment may be located within an existing cupola, steeple, or similar architectural treatment in order to screen the same from visibility. If existing architectural features are not sufficient to screen the antenna(s) and accessory equipment of a roof-mounted WTF or the accessory equipment of a building-mounted WTF, a parapet wall, cupola, roof screen, or other similar architectural feature that matches the existing architecture of the building, as determined and approved by the Director, may be installed. Notwithstanding the foregoing, antennas for concealed building-mounted WTF's are required to be located within antenna concealment enclosures designed and camouflaged to blend in with the existing building as further set forth herein.
  - c. Accessory Equipment; Equipment Cabinets. Accessory equipment, including equipment cabinets/enclosures, located on the roof of a building and not otherwise screened by existing or installed architectural features shall be located within concealment enclosures designed to architecturally match the facade, roof, wall or other architectural features of the building, blend in with the existing structural design, color and texture of the building, and, if necessary for compatibility with the existing architectural style of the building, be stepped back from the facade of the building in order to limit the WTF's impact on the building's silhouette. Any newly created architectural feature designed to screen or enclose accessory equipment located on the roof shall not exceed twelve (12) feet in height, as measured from the existing roof surface of the building. Equipment cabinets may also be located on the ground in accordance with the

standards set forth in Section 17.140.060(A)(3). An equipment compound conforming with the requirements set forth in Section 17.140.060(A)(3) may only be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot.

- d. Roof-mounted and building-mounted WTF's, including newly created architectural structures or features designed to enclose or screen same, shall be compatible with the architectural style, color, texture, facade design, and materials of the building, and shall be proportional to the scale and size of the building. Antennas and accessory equipment mounted to the roof of the building shall not protrude beyond the exterior walls of the building.
  - e. Cables that are located on the side of the building shall be enclosed in conduit finished to match the materials and color of the building. Cables and conduit shall not be located on a façade of the building that is adjacent to a street or public right-of-way.
3. Additional Design Standards and Requirements for Concealed Roof-Mounted Wireless Telecommunications Facilities.
- a. Type and Height of Antenna. No antenna, other than a whip antenna, or newly created architectural feature designed to screen shall exceed twelve (12) feet in height. The antenna of a concealed roof-mounted wireless telecommunication facility shall not protrude above required screening and other architectural features so as to be visible, except as follows:
    - 1) Whip antennas, provided that the whip antenna does not exceed fifteen (15) feet in height, no more than fifty percent (50%) of the whip antenna is visible, and the visible portion of such whip antenna is no greater than two (2) inches in diameter;
    - 2) Panel antenna(s) located on an existing building that is thirty-five (35) feet in height or greater, which are not otherwise screened by existing or installed architectural features, provided that the antennas are designed, colored and textured to match the facade, roof, walls or other architectural features of the building in order to blend in with same or otherwise camouflaged, designed and sited to blend in with the predominant visual backdrop such that the antenna(s) conforms to the subject visibility standard; and
    - 3) Antennas located within antenna concealment enclosures designed or camouflaged in a manner such that the wireless telecommunications facility conforms to the subject visibility standard.
  - b. The antenna(s) of concealed roof-mounted WTF's may only be mounted to an existing pitched, gabled or mansard roof if such a mount operates to completely screen the roof-mounted WTF from visibility from the public right-of-way and adjacent properties.
4. Additional Design Standards and Requirements for Concealed Building-Mounted Wireless Telecommunications Facilities:
- a. Type and Height of Antenna. Only antennas enclosed within an antenna concealment enclosure shall be authorized for a concealed building-mounted



wireless telecommunication facility. Antennas and their concealment enclosures shall be flush mounted to the building (with no visual horizontal separation) and shall not extend or project more than eighteen (18) inches outside of the building's silhouette unless architectural features camouflage, screen or obscure same. Antenna concealment enclosures shall be compatible with the architectural style, color, texture, façade, and materials of the building, and appear as an integral part of the building. Antenna concealment enclosures shall not interrupt architectural lines of building facades, including the length and width of the portion of the façade on which mounted. Antennas and their concealment enclosures shall not extend vertically above the height of the building.

D. *Building-Concealed Wireless Telecommunications Facilities.* The following regulations, standards and requirements govern the location, siting and design of building-concealed wireless telecommunications facilities:

1. Allowed Districts with Administrative Permit: C-1, C-2, C-3, OI, M-1, M-2, MR-75\* and MU\*

\*The MR-75 and MU districts are subject to the following conditions:

- a. MR-75 zoned properties. In the MR-75 district, building-concealed wireless telecommunications facilities may only be attached to an existing building or structure used (existing principal use) for a 'For-Rent' dwelling building (apartment) use.
- b. MU zoned properties. In the MU districts, building-concealed wireless telecommunications facilities may only be attached to an existing building or structure zoned and used (existing principal use) for an industrial, commercial, office, or 'For-Rent' dwelling building (apartment) use.

2. Standards and Requirements Applicable to Building-Concealed Attached Wireless Telecommunications Facilities:

- a. Existing Building. Building-concealed wireless telecommunications facilities may only be located on existing buildings containing steeples, church spires, clock towers, bell towers or cupolas.
- b. Maximum Height. The height of a building-concealed wireless telecommunications facility shall not exceed the height of the existing architectural feature (e.g., steeple, church spire, clock tower, bell tower or cupola) that it is designed to replace by more than twenty-five percent (25%); provided, however, the height of a building-concealed WTF designed as a cupola may exceed the height of the existing cupola that it is designed to replace by up to four (4) feet when the subject building is at least thirty-feet (35) feet in height or greater. The height of the existing architectural feature shall be measured from the location where the roof surface of the building and base of the existing architectural feature meet to the highest point of the existing architectural feature. Height of the building concealed WTF is measured from the location where the roof surface of the building and base of the existing or new (replacement) architectural feature meet to the highest point of the new architectural feature in which the antenna is concealed.

- c. Setback. Building-concealed wireless telecommunications facilities are subject to the setback requirements of the zoning districts in which they are located.
- d. Design Standards and Concealment Elements.
  - 1) A building concealed WTF, including antenna(s) and accessory equipment, shall be fully enclosed by a new (replacement) architectural feature installed to replace an existing architectural feature of like kind; provided, the following exceptions shall be permitted:
    - (a) Equipment cabinets may be located on the ground in accordance with the standards set forth in Section 17.140.060(A)(3). An equipment compound conforming with the requirements set forth in Section 17.140.060(A)(3) may be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot; and
    - (b) Cables may be enclosed in conduit and located on the sides of the architectural feature in which the building-concealed WTF is enclosed and/or the building to which the building-concealed WTF is attached, provided conduit shall be finished to match the materials, texture, and color of the architectural feature and building, as applicable. Cables and conduit shall not be located on the front/façade of the building or architectural feature.
  - 2) A building concealed WTF shall be designed as a replacement of an existing architectural feature of a building in such a manner so as to not be identifiable as a WTF by a casual observer. The design of the building concealed WTF shall be compatible with the architectural style, color, texture, façade, design, and materials of the existing (original) architectural feature and building on which it is located.
  - 3) The width of a building concealed WTF shall not increase the width of the existing building or create building features that protrude beyond the exterior walls of the building.
  - 4) A building concealed WTF shall not increase the habitable floor area of the building on which it is located.
- E. Concealed Attached WTF's Mounted to Utility Poles or Light Structures. The following regulations, standards and requirements govern the location, siting, and design of concealed attached WTF's mounted to existing utility poles or light structures which are not located within public right-of-way:
  - 1. Allowed Districts with Administrative Permit: C-1, C-2, C-3, OI, M-1, M-2, MR-75 and MU
  - 2. Standards and Requirements Applicable to Concealed Attached WTF's Mounted to Utility Poles or Light Structures.
    - a. Allowed Utility Poles. Attached WTF's may only be attached to existing utility poles supporting aerial (overhead) telephone and electric distribution lines that are at least thirty (30) feet in height.

b. Allowed Light Structures. Attached WTF's may only be attached to freestanding light structures that are at least twenty-five (25) feet in height.

c. Prohibited Structures. Attached WTF's are not permitted to be attached to the following types of light fixtures:

- 1) Antique or decorative light fixtures or lampposts;
- 2) Post-top lights (post top luminary fixtures); and
- 3) Traffic control devices, including, but not limited to, traffic signal poles or supports.

Further, compliance with the requirements and standards set forth in this Section shall not authorize or permit the location of a wireless telecommunications facility within or upon public right-of-way in the City (See, Section 17.140.100), or upon any property or light structure owned by the City.

d. Minimum Height Location of Antennas. Antenna(s) shall be mounted on the alternative support structure at a height of fifteen (15) feet or more above grade. Pole-mounted equipment cabinets/enclosures shall be mounted on the alternative support structure at a height of ten (10) feet or more above grade.

e. Wireless Transmission Equipment. Only antennas, repeaters, equipment cabinets or pedestals, and other accessory equipment associated with DAS or small cell facilities may be installed in association with the attached WTF, subject to compliance with other design requirements set forth herein.

f. Cables. Cables shall be enclosed in conduit flush mounted to the utility pole or light structure. Conduit shall be finished to match the materials, texture, and color of the subject utility pole or light structure and positioned on the utility pole or light structure so as to be screened from view from public rights-of-way.

3. Additional Design Standards and Requirements for Attached WTF's Mounted to Utility Poles.

a. General Concealment Elements. The size, shape and orientation of antenna(s) and accessory equipment mounted to a utility pole shall be consistent with the size, shape and orientation of existing utility equipment installed on the subject utility pole and other utility poles in the nearby area. Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the utility pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing utility pole such that the attached WTF is no more readily apparent or plainly visible from public rights-of-way or adjacent property with a 'For-Sale' dwelling use than the existing utility equipment located on the utility pole. Further, if the utility pole is visible (at ground level) from any property with a 'for-sale' dwelling use, antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be flush-mounted to the utility pole and painted, textured, and designed in a manner consistent with the utility pole's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing utility pole.

- b. Type of Antennas; Maximum Number. No type of antenna other than a panel antenna, whip antenna, or antenna enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a utility pole. No more than (a) one (1) whip antenna and (b) three (3) panel antennas or three (3) antenna concealment enclosures (mounted on the side of the pole) may be attached to a utility pole. Alternatively, no more than one (1) canister, radome, shroud or other similar antenna concealment enclosure may be mounted at the top of the utility pole, as set forth below.
- c. Mounting of Antennas. Antennas shall be flush-mounted. A panel antenna, together with its mount, shall not extend horizontally from the utility pole more than the width of existing pole-mounted equipment (on the subject utility pole) with the same orientation, or more than three (3) feet, whichever is less. Panel antennas shall not extend vertically above the height of the utility pole. When flush-mounted to the side of the utility pole, a whip antenna, together with its mount, may extend horizontally up to eighteen (18) inches from the utility pole, and the whip antenna, exclusive of its mounts, may extend vertically up to three (3) feet above the height of the utility pole. Alternatively, the base of a whip antenna may be flush-mounted (without vertical separation) to the top surface of the utility pole but shall not extend vertically above the height of the utility pole by more than three (3) feet. For any canister, radome, shroud or other similar antenna concealment placed at the top of the pole, the base of such canister, radome, shroud or other similar antenna concealment enclosure shall be flush-mounted (without vertical separation) to the top surface of the utility pole and shall not extend vertically above the height of the utility pole by more than three (3) feet.
- d. Maximum Size of Antennas. A non-enclosed panel antenna shall be no larger than one (1) foot in width and two (2) feet in length. A whip antenna shall be no larger than two (2) inches in diameter and five (5) feet in length.
- e. Maximum Antenna Volume. In addition to the foregoing size limitations, each antenna located on the utility pole shall either be (a) located within a canister, radome, shroud or other similar antenna concealment enclosure that is no more than three (3) cubic feet in volume, or (b) if the antenna is not enclosed within an antenna concealment enclosure, capable of fitting within an enclosure (i.e., an imaginary enclosure) that is no more than three (3) cubic feet in volume. The aggregate volume of actual concealment enclosures and/or imaginary enclosures of all antennas located on the utility pole, including any pre-existing antennas, shall not exceed six (6) cubic feet in volume.
- f. Accessory Equipment; Equipment Cabinets. All pole-mounted accessory equipment, other than cables, conduit, and power meters and switches (and similar equipment installed by an electric utility) shall be located in equipment cabinets or other equipment enclosures. Pole-mounted equipment cabinets and enclosures shall be flush-mounted to the side of the utility pole. The dimensions of a pole-mounted equipment cabinet/enclosure shall not exceed 30 inches in height (length), 24 inches in width, and 18 inches in depth. The volume of all pole-mounted and ground-mounted equipment cabinets and enclosures associated with wireless transmission equipment located on the utility pole,

including pre-existing wireless transmission equipment located on the utility pole, shall not exceed seventeen (17) cubic feet.

4. Additional Design Standards Requirements for Attached WTF's Mounted to Light Structures.

- a. General Concealment Elements. Antenna(s) and pole-mounted accessory equipment of an attached WTF mounted to a light structure shall be designed, camouflaged, screened and obscured from view in order to render the attached WTF as visually inconspicuous as possible. Such antenna(s) and accessory equipment shall be painted, textured, and designed in a manner consistent with the light structure's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing light structure in order to render the attached WTF as visually inconspicuous as possible, such that it is not readily identifiable or plainly visible from public rights-of-way or adjacent property with a 'For-Sale' dwelling use. Antennas shall be concealed or screened by means of canisters, radomes, shrouds or other similar concealment enclosures, which shall be flush mounted to the top of the light structure and painted, textured, and designed in a manner consistent with the light structure's style, color, texture and materials and otherwise camouflaged and designed to blend in with the existing light structure.
- b. Type of Antennas. Only panel antennas or antennas enclosed within a canister, radome, shroud or other similar antenna concealment enclosure may be mounted to a light structure. No more than (a) three (3) panel antennas or antenna concealment enclosures mounted to the side of a light structure or (b) one (1) antenna concealment enclosure vertically mounted to the top of a light structure shall be attached to a light structure. No light structure shall contain both types of antenna mounts.
- c. Mounting of Antennas. Panel antennas and antenna concealment enclosures mounted to the side of a light structure shall be flush mounted with minimal visual horizontal separation and without extending vertically above the height of the light structure. Antenna attachment devices shall not extend horizontally from the light structure's pole more than the width of the pole at the location of attachment. Canisters, radomes, or similar antenna concealment enclosures that are vertically mounted shall be flush-mounted (without vertical separation) to the top of the pole and shall not extend vertically above the height of the light structure by more than three (3) feet. The canister, radome or similar antenna concealment enclosure shall be designed and camouflaged to appear as an integral part of the existing pole to which it is attached. If the diameter of an antenna concealment enclosure is greater than the diameter of the top end of the pole, the antenna concealment enclosure must be tapered in a manner consistent with the style of the subject pole. Antennas shall not be mounted to the mast arm or luminary of a light structure.
- d. Maximum Size of Antennas. The diameter of a canister, radome or similar antenna concealment enclosure that is mounted to the top of a pole shall not exceed the diameter of the existing pole at its mid-point. The depth and width of panel antennas and antenna concealment enclosures mounted to the side of a

light structure shall not exceed the minimum width of the pole at the location of attachment by more than fifty percent (50%) and the length of such panel antennas and antenna concealment enclosures shall be no greater than two (2) feet.

- e. Accessory Equipment; Equipment Cabinets. Cable and conduit shall be located inside the pole and not attached to the exterior. All accessory equipment, other than antenna concealment enclosures, cables, conduit, and power meters and switches (and similar equipment installed by an electric utility), shall be located in equipment cabinets or similar enclosures. Equipment cabinets and enclosures shall be flush mounted to the side of the light structure. The height (length) and depth of a pole-mounted equipment cabinet/enclosure shall not exceed 24 inches and 10 inches, respectively, and the width of a pole-mounted equipment cabinet/enclosure shall not exceed 12 inches or the minimum width of the pole at the location of attachment by more than fifty (50) percent, whichever is greater. The volume of all pole-mounted equipment cabinets/enclosures associated with wireless transmission equipment located on the light structure, including pre-existing wireless transmission equipment located on the light structure, shall not exceed six (6) cubic feet. To the extent ground-mounted equipment cabinets/enclosures are permitted in accordance with Section 17.140.060(A)(3) hereof, the volume of all pole-mounted and visible ground-mounted equipment cabinets/enclosures associated with wireless transmission equipment located on the light structure, including pre-existing wireless transmission equipment located on the light structure, shall not exceed seventeen (17) cubic feet.
- F. *Attached WTF's Mounted to Electrical Transmission Towers.* The following standards and requirements regulate the location, siting, design, and height of attached WTF's mounted to electrical transmission towers:
  - 1. Allowed Districts with Administrative Permit: All districts.
  - 2. Minimum Height of Alternative Support Structure. Non-concealed attached WTF's may only be mounted to electrical transmission towers with a height of fifty (50) feet or taller, as measured from finished grade. If the height of the electrical transmission tower is less than fifty (50) feet, only concealed attached WTF's may be mounted to such structure.
  - 3. Design Standards and Requirements Applicable to Non-Concealed Attached WTF's Mounted to Electrical Transmission Towers.
    - a. If the electrical transmission tower is eighty (80) feet or more in height, as measured from finished grade, the attached wireless telecommunications facility, including any antenna(s) or antenna array(s), may be mounted to the top of the electrical transmission tower and extend up to ten (10) feet above the height of such electrical transmission tower.
    - b. If the electrical transmission tower is less than eighty (80) feet in height, the attached wireless telecommunications facility, including any antenna(s) or antenna arrays, shall not extend vertically above the height of the electrical transmission tower by more than five (5) feet.

- c. Antenna(s), antenna array(s), and any other accessory equipment attached to the electrical transmission tower shall be painted and textured to match the color and texture of the electrical transmission tower.
  - d. Ground-mounted equipment cabinets shall be located and designed in conformity with Section 17.140.060(A)(3) or located within an equipment compound complying with the requirements set forth in this Code hereof and set back a minimum of twenty (20) feet from the boundaries of the public utility easement.
4. Design Standards and Requirements Applicable to Concealed Attached WTF's Mounted to Electrical Transmission Towers Less than Fifty Feet in Height.
- Only concealed attached WTF's may be attached to an existing electrical transmission tower less than fifty (50) [feet] in height. Concealed attached WTF's mounted to electrical transmission towers less than fifty (50) [feet] in height require an administrative permit and are required to comply with the design standards applicable to concealed attached WTF's mounted to utility poles, as set forth in subject to the following exceptions:
- a. Pole-mounted equipment cabinets may have dimensions up to 48 inches in height, 28 inches in width, and 20 inches in depth.
- G. *Concealed Freestanding Support Structures.* The following standards and requirements regulate the location, siting, design and height of concealed freestanding support structures:
- 1. Allowed Districts with Administrative Permit:
    - a. Concealed Freestanding Support Structure to Exceed District Height: OI, M-I and M-2; and
    - b. Concealed Freestanding Support Structure Not to Exceed District Height: All other nonresidential districts, subject to the following:
  - 2. Location, Setback and Height Requirements.
    - a. Maximum Height.
      - 1) OI, M-1 and M-2 Districts. The height of a concealed freestanding support structure located in the L-I or O-I districts shall not exceed the following maximum heights, as measured above:
        - (a) Clock tower, campanile, freestanding steeple, or other similarly designed freestanding support structure that conceals antennas as an architectural feature: eighty (80) feet;
        - (b) Faux Flagpoles: sixty (60) feet; and
        - (c) Faux Light Structures: forty (40) feet or as otherwise limited by applicable design standards set forth in other provisions of this Code or the City Code.
      - 3) Nonresidential and AG Districts. The height of a concealed freestanding support structure, as measured above, located in any other nonresidential district or AG district shall not exceed the maximum building or structure

height allowed for the subject district or, if otherwise prescribed, the maximum height allowed for the subject type of structure feature in accordance with other applicable provisions of this Code or the City Code.

- b. *Setback*. Concealed freestanding support structures must be set back from the property line of any other property with a 'For-Sale' dwelling use a minimum distance equal to the height of such concealed freestanding support structure. Concealed freestanding support structures and accessory equipment are further subject to the setback requirements of the zoning district in which they are located and/or required by existing conditions of zoning, or which are otherwise applicable to the subject type of structure in accordance with other provisions of this Code.

3. Concealment Elements and Design Standards.

- a. *General*. Concealed freestanding support structures shall fully conceal all wireless transmission equipment, including antenna(s), and may either be designed as an architectural feature or as a structure that mimics a common site feature, such as a faux flagpole or faux light structure, in which the antenna and accessory equipment shall be fully enclosed and completely hidden from view. Concealed freestanding support structures shall be located and designed to be aesthetically compatible with existing uses, building(s), and site features located on the site and nearby properties in such a manner so as not to be reasonably identifiable or recognizable to the casual observer as a wireless telecommunication facility.
- b. *Freestanding Architectural Feature*.
  - 1) A concealed freestanding support structure designed as an architectural feature may be designed as a clock tower, bell tower, campanile, freestanding steeple, or other similarly designed freestanding architectural feature so as to substantially reduce the WTF's potential adverse visual impacts on the surrounding areas. The design of the concealed freestanding support structure shall be compatible with the architectural style, color, texture, facade, design, and materials of the principal building of the lot on which located and other structures located thereon. In order to ensure visual and aesthetic compatibility with the existing buildings and structures located on the subject property and nearby properties, a concealed freestanding support structure designed as an architectural feature shall require the review and approval of a certificate of design approval by the Design Review Board prior to the issuance of an administrative permit hereunder.
  - 2) All accessory equipment for a concealed freestanding support structure designed as an architectural feature shall be located within the concealed freestanding support structure.
- c. *Faux Flagpole*.
  - 1) The pole of a faux flagpole shall be tapered in a manner consistent with the style of other flag poles. The diameter of a faux flagpole that is less than fifty (50) feet in height shall not exceed eight (8) inches at its mid-point. The



diameter of a faux flagpole that is more than fifty (50) feet in height shall not exceed twelve (12) inches at its mid-point.

- 2) No more than one faux flagpole shall be located on any lot or common development.
- 3) The faux flagpole shall be located on the property in a manner that is compatible with the location of similar site features on the subject property and other properties in the surrounding area.
- 4) Antenna(s) shall be fully concealed within the pole or through the use of canisters, radomes, or similar antenna concealment enclosures flush-mounted (without vertical separation) to the top of the pole. A canister, radome, or similar antenna concealment enclosure shall not exceed the diameter of the pole at its mid-point and shall be designed and camouflaged to appear as an integral part of the flagpole. If the diameter of an antenna concealment enclosure is greater than the diameter of the top end of the pole, the antenna concealment enclosure must be tapered and may not exceed three (3) feet in length. Further, the hoist side of the flag shall be required to span the length of any such antenna concealment enclosure. The flag used on a faux flagpole shall comply with other provisions of this Code governing flags.
- 5) Accessory equipment shall either be fully enclosed and concealed within the faux flagpole or placed within a ground-mounted equipment cabinet complying with Section 17.140.060(A)(3). An equipment compound conforming with the requirements set forth in Section 17.140.060(A)(3) may only be sited in the rear or side yard of the lot in locations consistent with existing utility areas of the subject lot.

d. Faux Light Structure.

- 1) A faux light structure shall be designed as a replacement of an existing light structure located on the same property so as to substantially reduce the WTF's potential adverse visual impacts on the surrounding areas. The design of a faux light structure, including the design of the pole and any attached light arms, shall be consistent with the size, shape, style, and design of the existing light structure on the property that it is designed to replace/mimic. A faux light structure shall not exceed the height of the existing light structure that it is designed to replace by more than five (5) feet.
- 2) The faux light structure shall be sited at the same location as the existing light structure that is being replaced.
- 3) Antenna(s) shall be fully concealed within the pole of the faux light structure or by the use of radomes that do not exceed the circumference of the pole at the location of attachment.
- 4) Accessory equipment shall either be fully enclosed and concealed within the faux light structure or placed within a ground-mounted equipment cabinet complying with Section 17.140.060(A)(3).

H. *Variances.* Notwithstanding any other provision of this Code or the City Code to the contrary, no request for a grant of relief from or a variance or exception to any regulation, standard or requirement set forth in this Section 17.140.00 may be heard or acted upon by the Board of Zoning Appeals. Further, subject to the limited exemption set forth in Section 17.140.060(A)(4), no administrative variances to any requirement of this Section 17.140.060 shall be permitted except for variances to prescribed setback requirements, as herein provided. Provided the proposed WTF meets the standard of visibility, the Director shall be authorized to grant variances from setback requirements for up to twenty percent (20%) of the prescribed setback requirements of this Code. Except for the foregoing, any person seeking to install, place, site, locate, collocate or modify an attached wireless telecommunications facility or concealed freestanding support structure that does not fully comply with the applicable standards and requirements set forth in Section 17.140.060 shall be required to submit an application for a conditional use permit in accordance with Section 17.140.070. The additional application, procedural and other requirements for any such request and the factors to be considered in granting or denying such a request are set forth in Paragraphs B, C, and D of Section 17.140.070. The provisions of this Paragraph shall not apply to any request to locate a wireless telecommunications facility within or upon public right-of-way in the City or any decision related thereto.

#### **Section 17.140.070. Standards And Regulations For Wireless Telecommunications Facilities Authorized By Conditional Use Permit.**

The procedures, standards, minimum requirements and standards of approval set forth in this Section govern the installation, placement, siting, location, collocation and/or modification of wireless towers, including stealth towers, and the wireless transmission equipment associated therewith, which may only be allowed in certain zoning districts pursuant to the approval of a conditional use permit. Additionally, the procedures and standards for approval set forth in this Section govern the installation, placement, siting, location, collocation or modification of concealed attached WTF's, attached WTF's mounted to electrical transmission towers, and concealed freestanding support structures that do not fully comply with the administrative permit standards.

##### **A. *Wireless Towers and Stealth Towers.***

1. Allowed Districts with Conditional Use Permit: O-I, C-2, C-3, M-1, M-2, and CUP\*.

\*The CUP districts are subject to the following conditions:

- a. CUP zoned properties: Wireless towers may only be allowed as a conditional use on lots in the CUP district that are zoned and used (existing principal use) for an industrial, commercial, office, semi-public, or 'For-Rent' dwelling building (apartment) use.
2. Prohibited in Downtown Overlay. Wireless towers are prohibited in the Downtown Overlay.
3. Minimum Requirements.
  - a. Wireless towers must be set back from any off-site residential building or structure a minimum distance equal to the height of the wireless tower.

Additionally, wireless towers must be set back from any public right-of-way a distance equal to fifty percent (50%) of the height of the wireless tower.

- b. A wireless tower shall be designed as a stealth tower or monopole.
- c. The height of a wireless tower shall not exceed one hundred and sixty (160) feet.
- d. The wireless tower and all ground-mounted wireless transmission equipment, including equipment shelters and equipment cabinets, shall be located within an equipment compound enclosed by fencing not less than six feet (6') in height and equipped with an appropriate anti-climbing device. The equipment compound shall be subject to the setback requirements of the zoning district in which it is located.
- e. Landscaping shall be designed in such a way as to preserve existing mature growth and to provide in the determination of the City Arborist, a suitable buffer of plant materials that mitigates the view of the wireless tower and wireless transmission equipment from surrounding properties. Additionally, a minimum 10-foot (10') wide landscape strip planted to buffer standards, as set forth in Article II of the UDC, shall be required on the exterior of all sides of the fence surrounding the equipment compound, except where access to the equipment compound is provided, as a vegetative screen unless the City of McDonough Arborist determines that existing plant materials are adequate. Such landscape strip shall be maintained in accordance with this Code.
- f. A fifty foot (50') heavy planted landscape buffer shall be required along all property lines adjoining property zoned or used for a 'For-Sale' dwelling use. Additionally, if the subject property is zoned AG, a fifty foot (50') heavy planted landscape buffer shall also be required along all public right-of-way. Use of natural topography and preservation of existing vegetation within a fifty-foot (50') buffer, which may be supplemented by new vegetation, if needed, may be substituted for the above requirements when found by the Director to provide screening at the appropriate density, depth and height. Landscaping shall be maintained for the life of the project.

B. *Attached Wireless Telecommunications Facilities and Concealed Freestanding Support Structures not Meeting Administrative Standards.*

- 1. Purpose and Intent. The purpose of this Paragraph B is to provide a procedure for the review of an application to install, place, site, locate, collocate or modify a wireless telecommunications facility that generally comports with the design standards and guidelines set forth in this Code, but fails to fully comply with all guidelines, standards and requirements set forth therein, such that the wireless telecommunications facility is not permitted by administrative permit. Any such application shall be subject to the review and approval of a conditional use permit by the Mayor and City Council in accordance with the standards for approval set forth in Paragraph C below.
- 2. Allowed Districts with Conditional Use Permit: See this Code for allowed districts based on the subject type of wireless telecommunications facility.

3. Minimum Requirements.
  - a. The wireless telecommunications facility must be sited and designed as a concealed attached wireless telecommunications facility (concealed roof-mounted WTF, concealed building-mounted WTF, building-concealed WTF, concealed attached WTF mounted to utility pole, concealed attached WTF mounted to light structure), attached WTF mounted to electrical transmission tower, or concealed freestanding support structure that generally comports with the design standards and guidelines set forth in this Code.
  - b. The maximum height of the attached WTF or concealed freestanding support structure shall not exceed the maximum height allowed pursuant to this Code by more than twenty-five percent (25%).
  - c. Relief from setback requirements shall not exceed fifty percent (50%) of the applicable requirement.
- C. *Additional Application Requirements for Conditional Use Permits.* In addition to the application requirements set forth in this Code hereof, an applicant applying for a conditional use permit shall further provide the following:
  1. A scaled site plan which shall clearly indicate: (a) cable/electrical elements to be utilized, (b) parking, (c) current and proposed on-site land uses and zoning of the property, (d) land uses and zoning designations of adjacent properties, (e) distance from the nearest edge of the support structure and all related equipment to historic structures or scenic views within one (1) mile of the proposed site, (f) adjacent roadways and proposed means of access to the site, (g) proposed setbacks and buffers from adjacent property lines, and (h) topography of the proposed site, including any existing streams, wetlands and floodplains or similar features.
  2. Legal description of the lot and leased parcel (if applicable), for which the conditional use permit is to apply.
  3. If applicant contends that the wireless telecommunications facility is required to close a significant gap in service coverage or capacity, an engineering study which includes a current and a future definition of the area of service coverage, capacity and radio frequency goals for voice and data (delineated individually and combined) to be served by the antenna or support structure and the extent to which such antenna or support structure is needed for service coverage and/or capacity of the subject wireless carrier. The study shall include the following information: (a) a description of the applicant's/wireless carrier's current wireless tower locations/sites within a two (2) mile radius of the proposed site, to include the types and kinds of services, service coverage, capacity and radio frequencies provided by the wireless carrier's antenna located thereon; (b) all other currently proposed wireless tower locations/sites of the applicant/wireless carrier within a two (2) mile radius of the proposed site for which an application or registration has been filed or submitted to another local government or the FCC; (c) the locations of other antennas of the wireless carrier currently proposed for collocation on other existing wireless

towers of other owners or wireless carriers within a two (2) mile radius of the proposed site for which an application or registration has been filed or submitted to another local government or the FCC by, or on behalf of, the applicant and/or wireless carrier; (d) all existing wireless tower locations and sites of other owners or wireless carriers located within the geographic search area (GSA) that were considered by the applicant/wireless carrier as alternatives to the proposed siting; (e) other locations within the geographic search area (GSA) that were considered by the applicant/wireless carrier as alternatives to the proposed siting; (f) an analysis and color propagation study of the current usage and service coverage in the service area, including detailed service coverage maps indicating lack of service coverage (coverage gaps), and the projected or anticipated service coverage of the proposed wireless telecommunications facility. The propagation study shall include a map showing the carrier's existing facilities, existing coverage or capacity area, and the proposed coverage or capacity area at varied antenna heights. The study shall also provide justification that the proposed height of the wireless tower or other wireless telecommunications facility is the minimum necessary to achieve the required service coverage delineated in the study. If a capacity issue is involved, an analysis of the current and projected usage in the GSA shall be included. If applicant contends that the wireless telecommunications facility is required due to a coverage or capacity issue for in-home, in-building or transitory use, the analysis shall describe the service coverage/capacity currently existing for such use and the anticipated service coverage/capacity of the proposed wireless telecommunications facility shall be provided. The study shall bear the signature and certification of a radio frequency engineer that the information provided in the application is true and correct.

4. A curriculum vitae shall be provided for the radio frequency engineer who certifies any documentation provided as part of the application for a WTF. Information shall include education obtained in the area of radio frequency engineering, and experience in the field, including length of time.
5. An engineer scaled drawing providing the distance between (a) the nearest edge of the proposed wireless tower or other wireless telecommunications facility and the nearest off-site residential building or structure and (b) the nearest point of any proposed accessory equipment of the wireless telecommunications facility and the nearest off-site residential building or structure.
6. Photos depicting the results of a balloon test of the wireless tower.
7. Certification that the wireless telecommunications facility, including the foundation and all attachments, are designed and will be constructed to meet all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. Structural integrity analysis shall be provided where antennas and equipment will be attached to an existing structure. Such certification and structural integrity analysis shall bear the signature and seal of

a professional engineer (licensed in the State of Georgia) and shall include the design plans.

8. Written documented, detailed analysis of the impact of the proposed wireless telecommunications facility/use addressing the factors specified in Paragraph D below.
  9. Evidence of compliance with applicable FAA requirements under 14 C.F.R. Section 77, as amended, which may include a copy of the FAA determination letter of no hazard, or a written statement prepared and signed by a professional airspace safety consultant.
  10. Copies of the National Environmental Policy Act (NEPA) and the State Historic Preservation Office (SHPO) reports on the proposed wireless telecommunications facility, if any have been issued.
  11. Copy of the Federal Communications Commission (FCC) license applicable for the intended use of the wireless telecommunication facility.
  12. Documentation establishing whether a stealth tower is to be proposed, and if not, an explanation as to why not.
  13. Analysis of possibilities of collocation or the inability to collocate, including any studies and detailed reasons as to why collocation is not possible and proof of the following: (a) all collocation sites and other alternative sites in the area that are/were being pursued and whether use of such sites has been denied; (b) the ability or inability to site an attached WTF by using existing structures; and (c) all actions taken by the applicant to achieve collocation or site an attached WTF to an existing structure.
  14. A written statement providing whether the proposed WTF is engineered and constructed to accommodate additional antennas or antenna arrays and whether the applicant consents to the future collocation of other wireless carriers on the proposed wireless tower.
  15. In addition to the non-refundable application fees (as established by the Mayor and City Council), an applicant requesting a conditional use permit for a wireless tower shall be responsible for an additional fee equal to the City's actual, direct costs for the review of the engineering study (provided pursuant to Paragraph 4 above) by a third-party consultant (radio frequency engineer), which shall not exceed \$3,500.00. The applicant shall submit a deposit of \$2,000.00 toward the fee to be paid pursuant to this section with its application.
- D. *Consideration of Conditional Use Permits.* Compliance with the minimum requirements set forth in Paragraph A or B of this Section does not alone confer a right to issuance of a conditional use permit. In regard to an application for a conditional use permit for a wireless telecommunications facility (i) the Planning Commission shall, after public hearing and consideration of the criteria set forth below, adopt a recommendation of approval, approval with conditions, or denial of the conditional use permit, and (ii) the Mayor and City Council shall, after public hearing and consideration of the criteria set forth below, approve, approve with conditions, or deny the conditional use permit. Notwithstanding any other provision

of this Code to the contrary and in lieu of the conditional use standards set forth in Code, in determining whether to approve, approve with conditions, or deny an application for a conditional use permit for a wireless telecommunications facility, the Mayor and City Council shall consider the following criteria:

1. Proximity and impact, if any, on residential districts, properties with 'For-Sale' dwelling uses, and historic structures/properties, including the visual and aesthetic impact of the wireless telecommunications facility;
2. Impact on the use of adjacent properties and surrounding areas;
3. Visibility from public rights-of-way, particularly Corridors of Influence, minor arterials, collector streets, and local streets;
4. Demonstrated need for the wireless telecommunications facility at the specified site, including need for service coverage or additional capacity;
5. Demonstrated need for the proposed height of the wireless telecommunications facility;
6. Topography, tree coverage and foliage of the area where the wireless telecommunications facility is to be located that buffer or screen the potential visual impact of the support structure and wireless transmission equipment;
7. Design of the wireless telecommunications facility, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness, including consideration of stealth towers and concealed WTF's;
8. Proposed ingress and egress;
9. Availability of suitable existing wireless towers or other support structures for collocation or for siting an attached WTF, so as to not require the construction of additional wireless towers or other antenna support structures;
10. Other alternative sites;
11. Collocation capability (i.e., whether the WTF is engineered and constructed to accommodate additional antennas or antenna arrays) and whether applicant intends to allow, accept, and accommodate collocation in the future;
12. Whether the proposed wireless telecommunications facility will impede the normal and orderly development of surrounding property for uses predominant in the area; and
13. Whether the location and siting of the proposed wireless telecommunications facility is considered to be consistent with a desirable pattern of development for the City, in general.

E. *Variances.*

1. An application for a variance or exception to the minimum requirements applicable to wireless telecommunications facilities subject to the approval of a conditional use permit may only be heard and acted upon by the Mayor and City Council following the recommendation of the Planning Commission. Any such variance or exception must be requested as part of the conditional use application and shall be heard by the Planning Commission and decided by the

Mayor and City Council as part of the public hearing process related to the conditional use application. If the conditional use is denied, the variance/exception may not be approved. If the conditional use is approved, with or without conditions, action may then be considered on the proposed variance/exception. Any request to change or modify the conditions of an approved conditional use permit or to modify an existing wireless telecommunications facility that is not otherwise exempt pursuant to this Code or subject to administrative approval, shall require an application for a conditional use permit. Notwithstanding any other provision of this Code or the City Code to the contrary, no grant of relief from or variance or exception to the requirements applicable to a wireless telecommunications facility subject to the approval of a conditional use permit shall be heard or acted upon by the Board of Appeals.

2. Variances or exceptions shall be limited to relief from the following requirements of this Code:

- a. Maximum height of the WTF;
- b. Minimum setback; and
- c. Minimum buffer.

A variance or exception to a height limitation shall not exceed twenty percent (20%) of the maximum height allowed pursuant to the applicable provision of this Code. Further, a variance or exception to minimum setback or buffer requirements shall not exceed fifty percent (50%) of the minimum setback or buffer required pursuant to the applicable provision of this Code or this Code.

3. When a proposed wireless telecommunications facility is recognized as potentially appropriate pursuant to the criteria set forth in Paragraph D, the Mayor and City Council may grant a variance or exception only upon a showing by applicant, as found by the Mayor and City Council, of the following:

- a. There are extraordinary and exceptional conditions pertaining to the property where the wireless telecommunication facility is to be located as a result of its size, shape or topography, which are not applicable to other lands in the area; and
  - 1) The application of the particular provision of this Code to the property will result in a hardship that is substantially unwarranted by the protection of the health, safety or general welfare of the community and the need for consistency among all properties similarly zoned; and
  - 2) Granting the variance will not confer any special privileges to the applicant which are inconsistent with the limitations upon other properties similarly zoned or which are denied to others similarly situated, or otherwise confer to applicant any advantage over similarly zoned properties or others similarly situated; and
  - 3) Granting the variance would not violate more than one standard of this Section; and



- 4) Relief, if granted, is the minimum necessary to alleviate such unnecessary hardship and will not otherwise serve as a mere convenience to the applicant; and
  - 5) Relief, if granted and with necessary conditions imposed, would be in harmony with the general purpose and intent of this Code; and
  - 6) Relief, if granted, would not be injurious to surrounding residential areas and neighborhoods, cause substantial detriment to the public good or impair the purpose and intent of this Code.
- b. Failure to grant relief would have the effect of prohibiting personal wireless services.

### **Section 17.140.080. Exemptions.**

The following uses shall not require the approval of an administrative or conditional use WTF permit, as otherwise required pursuant to this Section 17.140.080, subject to compliance with the applicable requirements set forth below; provided, however, nothing set forth herein shall exempt the subject property or structure from compliance with applicable building, electrical, safety and other construction code requirements, or building or land development regulations, including building and land development permit and site plan review requirements:

- A. *Governmental WTF's.* Wireless telecommunications facilities, including wireless towers, used solely for public safety purposes, installed and operated as a governmental function by federal or state government, the City, the Henry County Emergency Network Interoperability System (HENRIS), or authorized Henry County public safety agencies (e.g., City or Henry County 911 emergency communications and City or Henry County public safety communications for sheriff's office, police department, fire department or first responder medical services) may be installed without the requirement of an administrative or conditional use permit. Unless otherwise prohibited by law, public safety agencies shall be required to provide a map of the wireless tower or wireless telecommunications facility location. Notwithstanding the foregoing requirement regarding the use of the wireless tower for public safety purposes, collocations of wireless transmission equipment for commercial purposes onto an existing governmental wireless tower may be allowed (pursuant to the requirements set forth in the preceding paragraph). When a wireless tower or other wireless telecommunications facility approved for an authorized public safety agency ceases to be operated or used by an authorized public safety agency for a public safety purpose, any current use of such wireless tower or other wireless telecommunications facility by a nonpublic safety entity (due to prior collocation) shall be deemed non-conforming and the structure shall be deemed a non-conforming structure, unless such nonpublic safety entity submits an application for use of the wireless tower or WTF pursuant to the administrative or conditional use permit requirements set forth in this Section, as applicable, as if it were a new wireless tower or WTF.
- B. *COW's.* Upon a declaration of a state of emergency or disaster by federal, state, or local government or a determination of public necessity by the City, the City Administrator may approve the placement of a COW at any location within the City,

subject to the COW's compliance with Federal and/or State requirements, for a period of not more than one-hundred and twenty (120) days following the duration of the state of emergency or occurrence of the disaster or other event providing for public necessity. Further, the City Administrator may approve the placement of a COW for the purpose of providing service for a special event, subject to the COW's compliance with Federal and/or State requirements, for up to forty-five (45) days prior to such special event, for the duration of the special event, and for up to fourteen (14) days thereafter.

- C. *In-Building Antennas.* Antennas and other wireless transmission equipment installed entirely within buildings (without any exterior alterations to the exterior walls, roof, or other exterior architectural features of the building) for the primary purpose of providing wireless communications services within such buildings are not subject to the requirements of this Section.
- D. *Amateur Radio Antennas.* An amateur radio antenna owned and operated by an FCC-licensed amateur radio station operator and used solely for non-commercial purposes may be located without the requirement of an administrative or conditional use permit provided the following requirements are met:
  - 1. The amateur radio tower, including antenna, is located in the rear yard of the property (behind the principal structure);
  - 2. The amateur radio tower is less than fifty (50) feet in height if located within the City;
  - 3. The amateur radio tower shall be designed such that the entire structure will remain on the property or within a fall easement if it should fall; and
  - 4. The amateur radio tower and antenna shall meet all accessory structure requirements for the zoning district in which the amateur radio antenna is located except for the foregoing height limitations, which shall control.
- E. *Minor Antennas.* Satellite dish, television broadcast receiving antennas, and other OTARD antennas that are one meter (39.37 inches) or less in diameter and designed and used only to receive video programming signals (a) from direct broadcast satellite services, (b) from television broadcast stations, or (c) for wireless cable service.
- F. *Collocations and Modifications.* Collocation of new wireless transmission equipment on an existing antenna support structure and modification of an existing wireless telecommunications facility that conform with the following requirements, as applied to the wireless telecommunications facility as it was previously approved and constructed, do not require the approval of a WTF permit:
  - 1. The proposed collocation shall not increase the height or width of the antenna support structure, as previously approved, to which the wireless transmission equipment is to be attached;
  - 2. New ground-mounted wireless transmission equipment shall be installed within the existing equipment compound, or, when there is not an existing equipment compound, shall be located within an existing equipment cabinet or a

replacement equipment cabinet, which shall not exceed the dimensions or footprint of the equipment cabinet being replaced;

3. The proposed modification shall not increase the dimensions (area/perimeter) of the equipment compound, as previously approved, or where there is no equipment compound;
4. The proposed collocation or modification shall comply with any and all regulations, and/or conditions of approval applicable to the wireless telecommunications facility, including any and all design standards and requirements or conditions of approval providing required concealment elements or otherwise related to the design or visibility of the WTF;
5. The proposed modification or collocation shall not exceed the applicable weight limits for the antenna support structure, as demonstrated by a certified letter from a structural engineer licensed to practice in the State of Georgia; and
6. The proposed wireless telecommunications facility will not interfere with emergency or public safety communications, as demonstrated by a certified letter from a licensed radio frequency engineer.

Notwithstanding the foregoing exemption, any such proposed collocation or modification requires the submittal of an application to the Community Development Department. The contents of such an application shall include such information and documentation set forth in Section 17.140.080 as necessary to determine compliance with the foregoing criteria, as well as the applicable certifications required above. An application submitted pursuant to this Paragraph shall include a statement providing that the proposed application for collocation or modification is entitled to streamlined processing pursuant to O.C.G.A. § 36-66B-1, et seq. (the BILD Act). Any such application shall be reviewed for conformance with applicable building, electrical, safety and other construction code permit requirements, land development permit requirements, and site plan review requirements, including zoning and land use conformity, but shall not otherwise be subject to the issuance of additional administrative or conditional use permit (WTF permit) approvals, provided the proposed collocation or modification conforms with the requirements of this Paragraph. The provisions and procedures set forth in this Paragraph are adopted for the purpose of complying with O.C.G.A. § 36-66B-1, et seq. (the BILD Act) and are intended to allow previously approved wireless telecommunications facilities to be modified or collocations to previously approved antenna support structures to be accepted without the requirement of additional zoning or land use review and approval beyond that which is typically required by the City for the issuance of building or electrical permits.

**Section 17.140.090. Exemptions For Modifications That Do Not Substantially Change The Physical Dimensions Of A Wireless Telecommunications Facility.**

- A. *Purpose.* This Section is adopted pursuant to § 6409(a) of the 2012 Middle Class Tax Relief and Job Creation Act (also referred to as § 6409(a) of the Spectrum Act), codified at 47 U.S.C. § 1455(a), and the new FCC rules and regulations adopted pursuant to

Federal Communications Commission Report and Order FCC-14-153 ("Wireless Infrastructure Order") and set forth in 47 CFR § 1.40001.

B. *Definitions.* For the purposes of this Section only, the following terms shall have the meanings ascribed to them below (terms not otherwise defined in this Paragraph B, shall have the meanings set forth in Section 17.140.030):

1. Base Station means the alternative support structure of an attached WTF or any wireless transmission equipment at such fixed location associated with the attached WTF, provided the location and installation of such attached WTF was reviewed, approved, and issued a permit by the City in accordance with the applicable zoning and development regulations set forth in Section 17.140.080 (or any prior applicable City or local government zoning regulations in effect at the time of the original approval). The term "Base Station" does not encompass the term "Wireless Tower" as defined in this Section 17.140.090, or any wireless transmission equipment associated with a Wireless Tower.
2. Collocation means the mounting or installation of wireless transmission equipment on an Existing Wireless Tower or Existing Base Station for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
3. Concealment Elements means any and all concealment, camouflaging, screening, or blending techniques or methods, or other similar techniques or methods to reduce the visibility of the wireless telecommunication facility, (a) imposed as condition of zoning or conditional use approval at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, or (b) required by any applicable regulation or provision of this Code (or any prior applicable City or local government zoning regulations) in effect at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change. "Concealment Elements" include any and all design regulations, requirements or conditions that are applied to Wireless Towers and Base Stations to reduce the visibility of the wireless telecommunication facility, including, but not limited to, conditions or design regulations pertaining to antenna size and type, color of the support structure and wireless transmission equipment, antenna mounting techniques, including the requirement that antennas be flush-mounted, siting Base Stations so that they blend in with similar surrounding structures, requirements as to how cables should be located, and the size, location, design, and screening for ground based equipment. "Concealment Elements" include limitations on the height of the Wireless Tower or Base Station when such height limitations are imposed in conjunction with other design regulations or conditions requiring concealment, camouflaging, screening, blending, or other similar techniques or methods to be employed in order to reduce the visibility of the wireless telecommunication facility.
4. Current Site means:

- a. For Wireless Towers, other than Wireless Towers located in the public rights-of-way, the current boundaries of the leased or owned property surrounding the Wireless Tower and any related access or utility easements, as set forth in the application for the original approval of such Wireless Tower or any subsequent application to modify such Wireless Tower approved prior to February 22, 2012; and
  - b. For Wireless Towers located in the public rights-of-way and Base Stations, the limited area in proximity to the alternative support structure and other wireless transmission equipment already deployed on the ground, but only such restricted area that lies within the current boundaries of the leased or owned property surrounding the Base Station and any related access or utility easements.
- 5. Existing Wireless Tower or Existing Base Station means a Wireless Tower or Base Station that:
  - a. At the time an application is filed with the City pursuant to this Section, supports or houses wireless transmission equipment; and
    - 1) Was reviewed, approved, and issued a permit by the City in accordance with the applicable zoning and development regulations set forth in this Code, or was reviewed and approved in accordance with any former applicable City or other local government zoning and development regulations governing the permitting of such facilities and equipment at the time of its approval; or
    - 2) Was lawfully built and placed into operation in an area that was not zoned at the time of its installation.
  - b. "Existing Wireless Tower" or "Existing Base Station" does not include a structure that (i) is merely capable of supporting wireless transmission equipment, (ii) was constructed without the required zoning and development review and approval, or was otherwise illegally constructed, or (iii) was legally constructed in an area that was zoned, but at a time when applicable City or local zoning and development regulations did not require WTF review and approval.
- 6. Modification means the improvement, upgrade, expansion, removal, or replacement of existing wireless telecommunications facilities, including the installation, removal or replacement of wireless transmission equipment associated with an Existing Wireless Tower or Existing Base Station, such as the collocation of antenna on an Existing Wireless Tower or Base Station, the installation, removal or replacement of wireless transmission equipment within an existing equipment compound, or the installation, removal or replacement of an equipment cabinet associated with an Existing Wireless Tower or Existing Base Station, but does not include the complete or substantial replacement of a Wireless Tower or Base Station.
- 7. Substantial Change means a modification that, either singularly or due to the cumulative effect of a series of changes over time, changes the physical dimensions of a Wireless Tower or Base Station in any manner meeting one or more of the following criteria:

- a. For a Wireless Tower other than a Wireless Tower located in the public right-of-way, increases the height of the Wireless Tower by more than ten percent (10%) or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for a Wireless Tower located in the public right-of-way or a Base Station, increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater, provided:
  - 1) In cases where the deployments are or will be separated horizontally, such as on buildings' rooftops, changes in height resulting from a modification shall be measured from the height of the original structure (e.g., change in height is measured from the rooftop to the highest point of the proposed deployment) rather than from the height of a previously approved antenna or WTF (e.g., change in height is not based on the highest point of the existing roof-mounted WTF's antenna); and
  - 2) In other circumstances, changes in height shall be determined by measuring the change in height from the dimensions of the Wireless Tower or Base Station as originally approved, but inclusive of the most recent modification that received City approval or other applicable local zoning approval prior to February 22, 2012; or
- b. For a Wireless Tower other than a Wireless Tower located in the public right-of-way, involves adding an appurtenance to the body of the Wireless Tower that would protrude from the edge of the Wireless Tower by more than twenty (20) feet, or more than the width of the Wireless Tower structure at the level of the appurtenance, whichever is greater; for a Wireless Tower located in the public right-of-way or a Base Station, involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet; or
- c. Involves the installation of more than the standard number of new equipment cabinets for the technology involved, as reasonably determined by the Director, but not to exceed four (4) equipment cabinets; or, for Wireless Towers located in the public rights-of-way or Base Stations, involves the installation of new equipment cabinet(s) on the ground if there are no pre-existing ground-mounted equipment cabinets associated with such Wireless Tower or Base Station, or involves the installation of ground-mounted equipment cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinet associated with the structure; or
- d. Entails excavation or deployment outside the Current Site boundaries; or
- e. Results in the Wireless Tower or Base Station, as modified, being out of compliance with any current regulation required for approval of a WTF permit, any condition imposed as condition of zoning or conditional use approval at the time of the original approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, or any applicable regulation or provision of this Section (or any prior applicable City or local government zoning regulations) in effect at the time of the original

approval of the Wireless Tower or Base Station or at the time of the approval of any modification to the Wireless Tower or Base Station occurring prior to February 22, 2012, or constituting a Substantial Change, other than regulations or conditions related to height, width, equipment cabinets, or excavation or deployment that do not constitute Substantial Changes in accordance with the thresholds identified in subparagraphs a.—d. above, provided that such regulations or conditions related to height, width, equipment cabinets, or excavation or deployment are not concealment elements; or

f. Would defeat the concealment elements of the Wireless Tower or Base Station.

8. Wireless Tower means any structure built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including tower structures that are constructed for wireless communications services, and the associated Current Site.

C. *Application Review and Approval.* Notwithstanding any other provision of this Section of the Code, a request for Collocation or Modification that will not result in a Substantial Change in the physical dimensions of an Existing Wireless Tower or Existing Base Station, shall be reviewed and approved in accordance with the procedures set forth in 47 CFR § 1.40001, provided the Director further finds that the proposed Collocation or Modification will comply with generally applicable building, structural, electrical and safety codes and all other objective standards set forth in applicable regulations related to health and safety.

D. *Application Contents.* Each application that is submitted for review under this Section shall clearly identify the application as a Section 6409(a) application and shall be accompanied by such information and documentation set forth in this Code as necessary to determine compliance with the foregoing criteria, including, but not limited to:

1. A written and technically accurate and reliable narrative that explains the nature of the permit sought (collocation or modification) and that further states whether the applicant believes (and the basis therefor) that the WTF is subject to 47 U.S.C. § 1455(a), and if so, why its proposal fits each and all criteria for a Section 6409(a) modification set forth herein.
2. A detailed written description of the proposed Modification to the Existing Wireless Tower or Existing Base Station;
3. A photograph or graphic description to scale and a written description of the Existing Wireless Tower or Existing Base Station as originally constructed, if available, and as currently existing, and a graphic depiction to scale of the Wireless Tower or Base Station after Collocation or Modification;
4. A description of all construction that will be performed in connection with the proposed Collocation or Modification, including any excavation; and
5. A signed declaration by the applicant certifying that the proposed Collocation or Modification shall not constitute a Substantial Change and detailing the reasons therefor.

- E. *Validity.* This Section 17.140.090 is adopted for the purpose of complying with Section 6409(a) and the Wireless Infrastructure Order. This Section shall become null and void if Section 6409(a) or the Wireless Infrastructure Order is rescinded or invalidated. Any and all permits issued pursuant to this Section 17.140.090 shall terminate on the ninety-first (91st) day after Section 6409(a) or the Wireless Infrastructure Order is rescinded or invalidated. Further, if any provision of Section 6409(a) or the Wireless Infrastructure Order limiting the review of a modification or collocation by a local government is found unconstitutional, unenforceable or invalid by a court of competent jurisdiction, the corresponding provision(s) set forth in this Section shall become null and void.

### **Section 17.140.100. Wireless Facilities And Antennas In Public Rights-Of-Way.**

A. *Purpose and Compliance.*

1. This Ordinance shall be known as the "Wireless Facilities and Antennas in Public Rights-of-Way Ordinance" and may be internally cited in this Section 17.140.100 as "this Ordinance."
2. O.C.G.A. § 32-4-92 authorizes the City of McDonough, Georgia (the "City") to establish reasonable regulations for the installation, construction, maintenance, renewal, removal, and relocation of pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, facilities, or appliances in, on, along, over, or under the public roads of the City. Further, 47 U.S.C. § 253(c) provides that the City has authority to manage its public rights-of-way. Finally, the Georgia Streamlining Wireless Facilities and Antennas Act, O.C.G.A. Title 36, Chapter 66C (the "SWFAA"), addresses the placement of small wireless facilities in the public rights-of-way of the City.
3. The City finds it is in the best interest of the City and its residents and businesses to establish requirements, specifications reasonable conditions regarding placement of small wireless facilities and poles in the public rights-of-way. These requirements, specifications and conditions, are adopted in order to protect the health, safety and welfare of the residents and businesses of the City and to reasonably manage and protect the public rights-of-way and its uses in the City.
4. The objective of this Ordinance is to (i) implement the SWFAA and (ii) ensure use of the public rights-of-way is consistent with the design, appearance and other features of nearby land uses, protects the integrity of historic, cultural and scenic resources and does not harm residents' quality of life.

B. *Definitions.* As used in this Section 17.140.100, the following terms have the following meanings:

*Antenna* means: (i) communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or (ii) communications equipment similar to equipment described in part (i) used for the transmission, reception, or transmission and reception of surface waves. Such term shall not include television broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.



*Applicable Codes* means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the State of Georgia or the City or are otherwise applicable in the City.

*Applicant* means any person that submits an application.

*Application* means a written request submitted by an applicant to the City for a permit to: (i) collocate a small wireless facility in a right-of-way; or (ii) install, modify, or replace a pole or decorative pole in a right-of-way on which a small wireless facility is or will be located.

*Authority Pole* means a pole owned, managed, or operated by or on behalf of the City. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

*Collocate or Collocation* means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

*Communications Facility* means the set of equipment and network components, including wires and cables and associated equipment and network components, used by a communications service provider to provide communications services.

*Communications Service Provider* means a provider of communications services.

*Communications Services* means cable service as defined in 47 U.S.C. § 522(6); telecommunications service as defined in 47 U.S.C. § 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.

*Consolidated Application* means an application for the collocation of multiple small wireless facilities on existing poles or support structures or for the installation, modification, or replacement of multiple poles and the collocation of associated small wireless facilities.

*Decorative Pole* means an authority pole that is specially designed and placed for aesthetic purposes.

*Electric Supplier* means any electric light and power company subject to regulation by the Georgia Public Service Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state.

*Eligible Facilities Request* means an eligible facilities request as set forth in 47 C.F.R. § 1.40001(b)(3), as it existed on January 1, 2019.

*FCC* means the Federal Communications Commission of the United States.

*Fee* means a one-time, nonrecurring charge based on time and expense.

*GMA Pole* means any pole installed in City of McDonough rights-of-way, as dictated by O.C.G.A. Title 36, Chapter 66 supported by Georgia Municipal Association (GMA) lobbyists in cooperation with large telecom company lobbyists.

*Historic District* means: (i) any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the

secretary of the interior of the United States in accordance with Section VI.D.l.a.i—v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part I; (ii) any area designated as a historic district under Article 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act; or (iii) any area designated as a historic district or property by law prior to April 26, 2019.

*Law* means and includes any and all federal, state, or local laws, statutes, common laws, codes, rules, regulations, orders, or ordinances.

*Micro Wireless Facility* means a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

*Permit* means a written authorization, in electronic or hard copy format, required to be issued by the City to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification, or replacement of a pole or decorative pole upon which a small wireless facility is collocated.

*Person* means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

*Pole* means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right-of-way, including without limitation a replacement pole and an authority pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

*Rate* means a recurring charge.

*Reconditioning Work* means the activities associated with substantially painting, reconditioning, improving, or repairing authority poles.

*Replace, Replacement or Replacing* means to replace a pole or decorative pole with a new pole or a new decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. § 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

*Replacement Work* means the activities associated with replacing an authority pole.

*Right-of-Way* means, generally, property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road; provided, however, that such term shall apply only to property or an interest therein that is under the ownership or control of the City and shall not include property or any interest therein acquired for or devoted to an interstate highway or the public rights, structures, sidewalks, facilities, and appurtenances of buildings for public equipment and personnel used for or engaged in administration, construction, or maintenance of public roads or research pertaining thereto or scenic easements and easements of light, air, view and access.

*Small Wireless Facility* means radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at

a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications: (i) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (ii) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility: electric meters; concealment elements; telecommunications demarcation boxes; grounding equipment; power transfer switches; cut-off switches; and vertical cable runs for connection of power and other services. Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

*State* means the State of Georgia.

*Support Structure* means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

*Wireless Infrastructure Provider* means any person, including a person authorized to provide telecommunications services in this state, that builds, installs, or operates small wireless facilities, poles, decorative poles, or support structures on which small wireless facilities are or are intended to be used for collocation but that is not a wireless services provider.

*Wireless Provider* means a wireless infrastructure provider or a wireless services provider.

*Wireless Services* means any services provided to the public using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

*Wireless Services Provider* means a person that provides wireless services.

*Wireline Backhaul Facility* means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

#### C. *Permits.*

1. A permit is required to collocate a small wireless facility in the public right-of-way or to install, modify, or replace a pole or a decorative pole in the public right-of-way. A permit is not required to perform the activities described in O.C.G.A. § 36-66C-6(e) or (f).
2. Any person seeking to collocate a small wireless facility in the public right-of-way or to install, modify, or replace a pole or a decorative pole in the public right-of-way shall submit an application to the Community Development Department for a permit. Applications are available from the Community Development Department.

Any material change to information contained in an application shall be submitted in writing to the Community Development Department within 30 days after the events necessitating the change.

3. Each application for a permit shall include the maximum application fees permitted under O.C.G.A. § 36-66C-5(a)(1), (a)(2) and (a)(3). Such maximum application fees shall automatically increase on January 1 of each year beginning January 1, 2021, as provided under O.C.G.A. § 36-66C-5(b),
4. The Community Development Department shall review applications for permits according to the timelines and using the procedures identified in O.C.G.A. §§ 36-66C-7 and 36-66C-13.
5. Applications for permits shall be approved except as follows:
  - a. In order to receive a permit to install a pole or replace a decorative pole, the applicant must have determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which: (i) the applicant has the right to collocate subject to reasonable terms and conditions; and (ii) such collocation would not impose technical limitations or significant additional costs. The applicant shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and shall provide a written summary of the basis for such determination.
  - b. The Community Development Department in collaboration with the Public Works Department may deny an application for a permit upon any of the conditions identified in O.C.G.A. § 36-66C-7(j).
  - c. For applications for new poles in the public right-of-way in areas zoned for residential use, the Community Development and Public Works Departments may propose an alternate location in the public right-of-way within 100 feet of the location set forth in the application, and the wireless provider shall use the Community Development and Public Works Departments proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.
6. A permit issued under this Section 17.140.100(C) shall authorize such person to occupy the public rights-of-way to: (i) collocate a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(3) or on or adjacent to a decorative pole in compliance with O.C.G.A. § 36-66C-12; and (ii) install, modify, or replace a pole or decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in O.C.G.A. § 36-66C-7(h)(1) and (h)(2).
7. Upon the issuance of a permit under this Ordinance, and on each anniversary of such issuance, every person issued a permit shall submit to the City the maximum annual payments permitted under O.C.G.A. § 36-66C-5(a)(4) and (a)(5); provided, however, that if such person removes its small wireless facilities from the public rights-of-way pursuant to O.C.G.A. § 36-66C-5(e), then such person shall be

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

8. Any person issued a permit shall pay the fees identified in O.C.G.A. § 36-66C-5(a)(6) and (a)(7), as applicable.
9. The City may revoke a permit issued pursuant to this Section C if the wireless provider or its equipment placed in the public right-of-way under that permit subsequently is not in compliance with any provision of this Ordinance or the Georgia Streamlining Wireless Facilities and Antennas Act. Upon revocation, the City may proceed according to the following Paragraph 10.
10. If a wireless provider occupies the public rights-of-way without obtaining a permit required by this Section 17.140.100(C) or without complying with the SWFAA, then the City may, at the sole discretion of the City, restore the right-of-way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider the reasonable, documented cost of the City in doing so, plus a penalty not to exceed \$1,000.00. The City may suspend the ability of the wireless provider to receive any new permits from the City under this Section 17.140.100(C) until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the City may not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
11. All accepted applications for permits shall be publicly available subject to the limitations identified in O.C.G.A. § 36-66C-6(c).
12. An applicant may file a consolidated application related to multiple small wireless facilities, poles or decorative poles so long as such consolidated application meets the requirements of O.C.G.A. § 36-66C-13.
13. Activities authorized under a permit shall be completed within the timelines provided in O.C.G.A. § 36-66C-7(k)(2).
14. Issuance of a permit authorizes the applicant to: (i) undertake the collocation, installation, modification or replacement approved by the permit and (ii) operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of ten (10) years.
15. Permits shall be renewed following the expiration of the term identified in this Code upon the terms and conditions identified in O.C.G.A. § 36-66C-7(k)(2)(B).
16. If an application for a permit seeks to collocate small wireless facilities on authority poles in the public rights-of-way, then the City shall, within 60 days of receipt of the completed application: (i) provide a good faith estimate for any make-ready work necessary to enable the authority pole to support the proposed facility; or (ii) notify

the wireless provider that the wireless provider will be required to perform the make-ready work. Any make-ready work performed by the City shall be completed pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(n).

*D. Removal; Relocation; Reconditioning; Replacement; Abandonment.*

1. A person may remove their small wireless facilities from the public rights-of-way according to the procedures of O.C.G.A. § 36-66C-5(e).
2. In the event of a removal under the foregoing paragraph, the right-of-way shall be, to the extent practicable in the reasonable judgment of the City, restored to its condition prior to the removal. If a person fails to return the right-of-way, to the extent practicable in the reasonable judgment of the City, to its condition prior to the removal within 90 days of the removal, the City may, at the sole discretion of the City, restore the right-of-way to such condition and charge the person the City's reasonable, documented cost of removal and restoration, plus a penalty not to exceed \$500.00. The City may suspend the ability of the person to receive any new permits under Section 17.140.100(C) until the person has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided. However, the City will not suspend such ability of any person that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.
3. If, in the reasonable exercise of police powers, the City determines: (i) a pole or support structure unreasonably interferes with the widening, repair, reconstruction, or relocation of a public road or highway, or (ii) relocation of poles, support structures, or small wireless facilities is required as a result of a public project, the wireless provider shall relocate such poles, support structures, or small wireless facilities pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(l). If the wireless provider fails to relocate a pole, support structure or small wireless facility or fails to provide a written good faith estimate of the time needed to relocate the pole, support structure or small wireless within the time period prescribed in O.C.G.A. § 36-66C-7(l), the City make take the actions authorized by O.C.G.A. § 36-66C-7(o), in addition to any other powers under applicable law.
4. The City shall recondition and replace authority poles consistent with the provisions of O.C.G.A. § 36-66C-7(m). Wireless providers shall accommodate and cooperate with reconditioning and replacement consistent with the provisions of O.C.G.A. § 36-66C-7(m).
5. A wireless provider must notify the City of its decision to abandon any small wireless facility, support structure or pole pursuant to and in accordance with the provisions of O.C.G.A. § 36-66C-7(p)(1). The wireless provider shall perform all acts and duties identified in O.C.G.A. § 36-66C-7(p) regarding abandonment. The City may take all actions and exercise all powers authorized under O.C.G.A. § 36-66C-7(p) upon abandonment, in addition to any other powers under applicable law.

*E. Standards.*

1. Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the public right-of-way as a permitted use: (i) upon a receipt of a permit under this Code; (ii) subject to

applicable codes; and (iii) so long as such small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities comply with the appropriate provisions of O.C.G.A. § 36-66C-7(h).

- a. New, modified, or replacement poles installed in the right-of-way in a historic district and in an area zoned primarily for residential use shall not exceed 50 feet above ground level.
  - b. Each new, modified, or replacement pole installed in the right-of-way that is not in a historic district or in an area zoned primarily for residential use shall not exceed the greater of:
    - 1) Fifty feet above ground level; or
    - 2) Ten feet greater in height above ground level than the tallest existing pole in the same public right-of-way in place as of January 1, 2019, and located within 500 feet of the new proposed pole;
  - c. New small wireless facilities in the public right-of-way and collocated on an existing pole or support structure shall not exceed more than ten feet above the existing pole or support structure.
  - d. New small wireless facilities in the public right-of-way collocated on a new or replacement pole under subparagraph 1(a) or subparagraph 1(b) of this Section 17.140.100(E) may not extend above the top of such poles.
2. A decorative pole should only be located where an existing pole can be removed and replaced, or at a new location where the City has identified that a streetlight is necessary.
  3. Unless it is determined that another design is less intrusive, or placement is required under applicable law, small wireless facilities shall be concealed as follows:
    - a. Antennas located at the top of poles and support structures shall be incorporated into the pole or support structure, or placed within shrouds of a size such that the antenna appears to be part of the pole or support structure.
    - b. Antennas placed elsewhere on a pole or support structure shall be integrated into the pole or support structure or be designed and placed to minimize visual impacts.
    - c. Radio units or equipment cabinets holding radio units and mounted on a pole shall be placed as high as possible, located to avoid interfering with, or creating any hazard to, any other use of the public rights-of-way, and located on one side of the pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the pole on which they are placed.
    - d. Wiring and cabling shall be neat and concealed within or flush to the pole or support structure, ensuring concealment of these components to the greatest extent possible.

4. Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility within a historic district and may place or replace a pole within a historic district, only upon satisfaction of the following: (i) issuance of a permit under Section 17.140.100(C) and (ii) compliance with applicable codes.
5. Notwithstanding any provision of this Ordinance to the contrary, an applicant may collocate a small wireless facility on a decorative pole or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following: (i) issuance of a permit under Section 17.140.100(C) and (ii) compliance with applicable codes.

## **CHAPTER 17.150. RESERVED.**



## **CHAPTER 17.160. TREE CANOPY CONSERVATION.**

### **Section 17.160.010. Intent.**

- A. The purposes of these regulations are to encourage the conservation of existing tree canopy and provide minimum requirements for the protection, maintenance, renewal, and increase of tree canopy cover across the City. The City believes that trees are an essential part of the community's infrastructure and recognizes that they provide measurable and valuable services and benefits to our community. These services and benefits include:
1. Improved health of the City of McDonough's citizens and visitors;
  2. Improved air quality;
  3. Improved water quality;
  4. Improved soil quality;
  5. Storm water control;
  6. Energy conservation;
  7. Increased property values;
  8. Habitat for desirable wildlife;
  9. Noise and glare buffering;
  10. Privacy screening;
  11. Increased community aesthetics and quality of life;
  12. Increased shade for active living activities like walking, and biking;
  13. Mitigating the urban heat island effect;
  14. Implementing the City's sustainability goals, including resilience, climate change mitigation and adaptation.
- B. The City recognizes that trees and tree canopy are a community resource that requires active conservation and replanting efforts. The City's tree canopy goal is a minimum of 65% canopy coverage over the entire City of McDonough. The City's tree canopy cover shall be measured every 5 years. Future canopy measurements will use methodologies substantially similar to the "Urban Tree Canopy Assessment and Change Analysis 2009-2019" completed in 2021. The City shall review this Section following each canopy assessment to support canopy goals.
- C. The City Arborist shall prepare and publish a report at the end of each year which shall summarize tree removals, tree replacement, and additional tree plantings. Such report shall include location, size in diameter at breast height (DBH), caliper and canopy cover as appropriate, reason for removal or planting and other information as may be necessary to measure the effectiveness of the City's tree ordinance.
- D. Within two years of adoption of this Section, the City Arborist shall hold two (2) public information meetings to disseminate information regarding compliance with this

Section for tree care companies, property owners and managers, and residents. Thereafter, an annual public information meeting shall be held, providing the public with information on best compliance practices and recent developments under this Section.

**Section 17.160.020. Applicability And Exemptions.**

- A. This Section applies to all real property within the City limits, including all public and private property and all zoning districts.
- B. This Section shall apply to all protected trees as defined herein.
- C. No protected tree shall be removed, destroyed, or disturbed without the written consent of the City in the form of an approved Tree Conservation Plan or Tree Removal Permit.
- D. The following activities and trees are exempt from compliance with this Section:
  - 1. Activities or trees included in approved community forest management plans, annual utility work plans, memoranda of understanding or other plans and agreements approved and executed by the Mayor and City Council and government entities, utility companies, public authorities, boards or commissions, provided that such activities comply with the tree protection measures described in this Section.
  - 2. Activities or trees described in a waiver issued by the City during and immediately after the period of an emergency such as a flood, hurricane, ice storm, thunderstorm, windstorm, tornado, or any other disastrous act of nature.
  - 3. Activities or trees on any portion of a property included within the limits of a valid site development permit issued prior to January 1, 2025, provided that all time constraints relating to the permit are observed.
  - 4. Expedited written authorization may be given by the City Arborist for a tree to be removed with a Tree Removal Permit required to be submitted within 72 hours of the removal in a case where a tree has been determined by a Certified Arborist using the I.S.A. Tree Risk Assessment Form to be in the following condition:
    - a. To be at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner or to have a high to extreme risk of failure that cannot otherwise be mitigated.
    - b. To be in such a dangerous condition that it is threatening public health, safety or welfare or threatens to cause imminent harm to a building or other infrastructure, and such tree requires immediate removal. A request for expedited written authorization of tree removal shall include the location, size, species, and description of the condition of the tree to be removed.
  - 5. Trees grown specifically for sale, such as Christmas trees and nursery stock.
- E. Special exceptions to canopy coverage standards for affordable housing. The Mayor and City Council may authorize special exceptions to the requirements of this Section

when public purposes are met, and such exceptions support the community goal of affordable housing. Such exceptions shall be considered for permanent, bona fide affordable housing and subject to such standards, limitations and conditions as determined by the Mayor and City Council.

#### **Section 17.160.030. Administrative and Supplemental Materials.**

*A. Administrative:*

Upon approval of the Director, the City Arborist may waive or modify the requirements of this section to respond to a bona fide hardship based.

- B. Tree Species List: There is hereby established a City Tree Species List that shall be found on the Community Development Department's web page.

#### **Section 17.160.040. Tree Canopy Cover Credit**

- A. Unless otherwise specified in this Section, actual tree canopy cover may be supplemented with tree canopy cover credit as defined in this section.
- B. All existing healthy trees greater than 4 inches DBH, except for invasive and non-native, flowering ornamental species, that are rated fair or better, shall be eligible for tree canopy cover credit. Poor-rated trees shall not be eligible for tree canopy cover credit. Trees whose crown and/or trunk are adversely impacted by invasive species including, but not limited to, English ivy, wisteria, kudzu and other species detrimental to tree health shall receive no tree canopy cover credit until such invasive species are removed.
- C. The area of tree canopy cover on a site shall be measured as the percent of the lot area that is covered by tree canopy, including canopy that projects over buildings and impervious surfaces. The portion of canopy projected over and onto the applicant's property by a boundary tree located on the property line or by a tree located on public property shall be included in the measurement of total tree canopy cover existing on a site. Tree canopy projected by a tree located in a public right-of-way shall be included. Tree canopy projected by a tree located on the applicant's property over and onto neighboring or adjacent property shall be included. Tree canopy projected over and onto the applicant's property by a tree growing on a neighboring or adjacent property shall not be included in the tree canopy cover measurement.
- D. The area of tree canopy cover on a site shall be measured as the percentage of the lot area that is covered by tree canopy, including canopy that projects over buildings and impervious surfaces. The portion of canopy projected over and onto the applicant's property by a boundary tree located on the property line or by a tree located on public property shall be included in the measurement of total tree canopy cover existing on a site. Tree canopy projected by a tree located in a public right-of-way shall be included. Tree canopy projected by a tree located on the applicant's property over and onto neighboring or adjacent property shall be included. Tree canopy projected over and onto the applicant's property by a tree growing on a neighboring or adjacent property shall not be included in the tree canopy cover measurement.

- E. The amount of tree canopy cover credited to an individual or group of existing trees shall be the actual projection of the combined crowns onto the ground measured in square feet. The crowns of existing understory trees as defined in the Tree Species List may be credited at half their combined crown area and included in the tree canopy cover measurement. The preservation of a tree designated as a Landmark Tree within the buildable area of a lot shall receive 1.5 times canopy credit in the calculation of existing tree canopy if 70% of the critical root area and the entire structural root plate is undisturbed. An arboricultural tree prescription from a certified arborist or registered forester will be required for this credit.
- F. New trees shall receive partial credit at the time of planting based on the tree canopy cover potential for the species at maturity as listed in the table below and the Tree Species List:

Tree Canopy Cover Credit by Mature Canopy Size	
Mature Canopy Size Category	Amount of Tree Canopy Cover Credit
Large	1,600 square feet (SF) x 50% = 800 SF
Medium	900 SF x 65% = 585 SF
Small	400 SF x 80% = 320 SF
Very Small	150 SF x 80% = 120 SF

**Section 17.160.050. Tree Canopy Cover Requirements.**

- A. Tree canopy cover provided by existing protected trees on January 1, 2025, shall be conserved on a property to the greatest extent possible. No disturbance or removal of existing protected trees shall be permitted without the written permission of the City Arborist in the form of an approved Tree Conservation Plan or Tree Removal Permit.
- B. Tree canopy cover conserved or planted to meet the requirements of this Section shall be conserved on the site in perpetuity unless such trees become untreatably diseased, infested, or have a moderate or higher risk rating and such risk cannot otherwise be mitigated as determined by a Certified Arborist using the I.S.A. Tree Risk Assessment. Tree canopy cover required by this Section that is lost over time shall be replaced during the first planting season (November 15—March 1) after the loss occurs.
- C. **Commercial, High Density Residential, and Institutional.**
  - 1. This section applies to properties in the following zoning districts: RTD, RM-75, OI, C-1, C-2, C-3, MU, M-1 and M-2.
  - 2. A minimum amount of 45% tree canopy cover from trees in fair or better-rated condition shall be required on public and private properties in RTD, RM-75, RCD, OI, C-1, C-2, C-3, MU, M-1 and M-2.

3. For properties zoned RTD, RM-75, RCD, and O-1 that require a land disturbance permit or where impervious area is increased, a minimum of 50% of the existing tree canopy cover from trees in fair or better-rated condition shall be conserved. If less than 45% canopy cover exists on the site at the time of permit application, the property owner shall apply for a Tree Conservation Plan or a Tree Removal Permit using standards for Alternative Compliance.
4. For properties zoned C-1, C-2, C-3, MU, M-1 and M-2 that require a land disturbance permit or where impervious area is increased and less than 45% canopy cover exists on the site at the time of permit application, the property owner shall apply for Alternative Compliance.
5. For sites where impervious cover or gross floor area is increased, the Tree Bank may be used for up to 50% of tree planting requirement.

**D. Single Family Residential.**

1. This section applies to properties in the following zoning districts: R-200, R-100, R-85, R-75 and R-60.
2. For properties that require a land disturbance permit or where impervious area is increased, no less than 75% of the existing tree canopy cover from trees in fair or better-rated condition shall be conserved. All tree canopy from Landmark trees shall be conserved. Planting replacement trees is required to maintain no net loss of tree canopy, including at least one tree planted in the front yard of the property or in an adjacent public right-of-way.
3. If replacement trees are required, a minimum of 50% of the property's tree canopy cover replacement must be accommodated on site, including adjacent public rights-of-way. At least one large canopy tree shall be planted in the front yard of the property or in the adjacent public right-of-way. The remaining 50% may be satisfied by a combination of replacement trees planted on City-owned property or in public rights-of-way, the installation of on-site green infrastructure, the installation of rooftop solar photovoltaic panels (PV), or, upon submission of an affidavit from the property owner attesting that other options have been explored but are infeasible due to site conditions, a payment in lieu fee made to the tree bank.
4. A minimum amount of 60% tree canopy cover from trees in fair or better-rated condition shall be required on single-family residential properties.

**E. Properties Owned or Managed by the City of McDonough.**

1. Properties owned or managed by the City of McDonough shall maintain no net loss of canopy, unless compliance with the Tree Conservation regulations is otherwise demonstrated.

**Section 17.160.060. Tree Canopy Replacement Requirements.**

- A. All trees planted to meet tree canopy replacement requirements shall be 2.5" caliper or larger and shall meet ANSI Z60.1 Standards for Nursery Stock, and all planting shall be done in accordance with the current ANSI A300 Standards for Tree Care

Operations, ANSI Z133 Safety Standards, and industry best management practices. Tree replacement under this Section shall be accomplished using trees of equivalent or better ecological value and quality on the Tree Species List.

- B. A Tree Planting Plan shall be submitted along with a Tree Removal Permit application.
- C. Removal of a protected tree without a valid Tree Removal Permit shall be considered a violation of this Section and subject to penalties described in Section 17.160.190.
- D. *Commercial, High Density Residential, and Institutional Alternative Compliance.*
  - 1. For properties with less than 45% tree canopy cover at the time of the permit application that require a land disturbance permit or where impervious area is increased, a Tree Conservation Plan is required.
  - 2. All existing trees in fair or better-rated condition located in public rights-of-way adjacent to the property must be conserved.
  - 3. Additional tree canopy cover must be planted to achieve 45% tree canopy cover across the site, including tree canopy provided by streetscape installations on public rights-of-way. If replacement trees are required, a minimum of 50% of the property's tree canopy cover replacement must be accommodated on site, including adjacent public rights-of-way. The remaining 50% may be satisfied by a combination of replacement trees planted on City-owned property or in public rights-of-way, the installation of on-site green infrastructure, the installation of rooftop solar photovoltaic panels (PV), or, upon submission of an affidavit from the property owner attesting that other options have been explored but are infeasible due to site conditions, a payment in lieu fee made to the tree bank.
- E. *Green Infrastructure.*
  - 1. Green infrastructure may include, but not be limited to, bioretention, rain gardens, infiltration trenches, bioswales, permeable pavement, stormwater planters, subsurface infiltration, rainwater harvesting, cisterns, landscaped green infrastructure, and other practices as described by the EPA.
  - 2. No trees shall be removed for the installation of green infrastructure to satisfy the requirements of this Section.
  - 3. Green infrastructure installed to satisfy a portion of a property's tree canopy cover replacement requirement must not be otherwise legally required.

#### **Section 17.160.070. Tree Bank.**

- A. There is hereby established a Tree Bank that shall receive payments made by property owners in lieu of planting additional tree canopy cover, as approved by the City Arborist, in addition to forfeited bonds and forfeited escrow funds. Funds in the Tree Bank shall be administered by the Director.
- B. Where it is determined by the City Arborist that it is impractical or impossible to fully meet the tree canopy cover requirements for a site, the portion of the canopy that cannot be accommodated on the site may be satisfied by a payment into the Tree Bank that shall be made prior to the issuance of a Tree Removal Permit, Building Permit, or

Land Disturbance Permit. The amount of the payment shall be calculated using the standard tree canopy value listed in the City's fee schedule.

- C. The Tree Bank funds shall be available for use by the City for the establishment, maintenance, improvement, and expansion of tree canopy cover on public or private property. Funds shall not be used on private property to meet the requirements of a development project. Funds may be used on private property only to expand and improve the City's tree canopy. The expenditure of tree bank funds shall not be used for tree removal and shall be permitted for various activities related to tree conservation including, but not limited to:
  - 1. Purchase of trees;
  - 2. Planting and transplanting of trees;
  - 3. Maintenance of trees during the establishment period;
  - 4. Purchase of greenspace;
  - 5. Funding tree care educational programs; and
  - 6. Funding maintenance and arboricultural treatments of existing City-owned trees.

**Section 17.160.080. Standard Tree Canopy Value.**

- A. A standard value for each square foot of tree canopy shall be established by the City for the purpose of calculating payments to the Tree Bank. The standard tree canopy value for a tree shall be determined on a square foot basis for the actual tree canopy or tree canopy cover credit for the species, whichever is greater.
- B. The standard tree canopy value shall be based on a general but reasonable estimate of the average cost for a tree that would provide comparable canopy, including shipping, labor, installation, and 3 years of maintenance.
- C. The Director shall make a recommendation to the City Manager each year on the amount of the standard tree canopy value. The current standard tree canopy value shall be listed in the City's fee schedule.

**Section 17.160.090. Tree Planting Easements.**

- A. The City is hereby authorized to acquire temporary easements with owners of private property for planting and transplanting trees. Temporary easements shall be limited to 3 years and easement areas acquired shall be located in front yards and limited to only that which is necessary for the planting of trees. The easements shall provide that, after planting, the private property owners acquire ownership of the trees, will be responsible for tree maintenance, and will release and hold the City harmless from any liability arising out of or related to the planting or presence of the trees on their property.

**Section 17.160.100. Tree Maintenance Requirements.**

- A. Trees planted to fulfill the requirements of this Section shall be maintained for 2 years after the date of final inspection to establish the health and growth of the tree. Should any tree die or fail within the required maintenance period, new replacement trees

shall be planted. At a minimum, maintenance shall include the following: watering, mulching, training pruning, and if necessary, pest management.

- B. All protected trees shall be maintained in accordance with the current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, and industry best management practices.
- C. The permit holder shall be responsible for identifying both newly planted and existing trees to the property owner and for informing the property owner as to their proper maintenance and any required arboricultural tree prescriptions. A Tree Maintenance Agreement between the permit holder and property owner to determine responsibility for maintenance and replacement shall be submitted to the City Arborist prior to issuance of a Certificate of Occupancy and shall be included in the record set of plans for the permit.
- D. *Tree Maintenance Bond.*
  - 1. Tree removal and land disturbance permit holders that are also required to have an approved Tree Conservation Plan shall furnish a 3-year tree maintenance bond or other financial security for trees planted outside the planting season (November 15—March 1), or for trees impacted beyond the approved tree plan limits. The amount of the bond shall be equal to 125% of tree removal and replacement tree planting expenses, including materials and labor.
  - 2. The City Arborist shall inspect planted trees and assess their health at the end of the establishment period and shall provide a written report to the permit holder indicating what actions, if any, are required before the bond will be released. If trees are found to be dead, dying, or not healthy at the time of the inspection, then replacement tree planting shall be required and the bond for replacement trees shall be retained for an additional 3 years.

#### **Section 17.160.110. Tree Transplanting.**

- A. Any protected tree transplanted using a tree spade within the boundaries of the subject site shall be given credit at 1.5 times the actual canopy coverage. Trees transplanted to locations other than the subject site shall receive actual canopy credit.
- B. A Tree Spade Transplanting Agreement must be signed by the applicant and approved by the City Arborist prior to plan approval.
- C. Transplanting shall be performed using a tree spade of proper dimension and shall comply with the current ANSI Standard Z-60.1, Section 1.3.
- D. Protected trees shall not be transplanted during the active growing period (March 15—October 1).

#### **Section 17.160.120. Canopy Loss Fee.**

- A. A canopy loss fee based on benefits lost to the community shall be established for the purpose of calculating payments to the Tree Bank.
- B. A canopy loss fee shall be paid to the Tree Bank by the property owner for any protected tree that is removed.



- C. A 50% reduction in canopy loss fee is allowed on single-family residential properties where green infrastructure is installed without tree removal.

**Section 17.160.130. Tree Protection Requirements.**

- A. Disturbance of up to 20% of the tree protection zone may be allowed with an approved land disturbance permit, building permit or tree conservation plan. Tree disturbance activities encroaching more than 20% of the critical root zone are prohibited without an arboricultural tree prescription and approval of the City Arborist.
- B. Land disturbance and grading on single-family residential properties (e.g., R-200, R-100, R-85, R-75, and R-60) shall be limited to no more than 125% of the total lot coverage permitted by zoning regulations.
- C. Damage to be avoided within the tree protection zone shall include, but not be limited to:
  - 1. Land disturbance and grading;
  - 2. Soil compaction;
  - 3. Gas, liquid, or solid contamination of the soil;
  - 4. Application of toxic chemicals to tree roots, trunk, or crown;
  - 5. Crushing or cutting of tree roots;
  - 6. Damage resulting from grading for or installation of sod, turf, or irrigation systems;
  - 7. Attachment of ropes, wires, chains, nails, screws, advertising, posters, or any other objects to tree trunks or scaffold limbs of public trees;
  - 8. Wounding of tree roots, trunk, and scaffold limbs;
  - 9. Improper pruning, including topping;
  - 10. Trenching for pipes, conduit, underground utilities, or silt fence;
  - 11. Excessive heat or desiccation causing bark, wood, limb, or large-scale bud or leaf injury.
- D. During land disturbance and land development, active protection shall be required for protected trees in accordance current American National Standards Institute (ANSI) A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices, and the Administrative Standards that accompany this Section.
- E. Active tree protection measures shall consist of the following:
  - 1. Erection of tree protection fencing around the outer limits of the critical root zone to include temporary chain link fence or four-foot orange tree protection fencing and staked hay bales.

2. Posting of tree protection signs in both English and Spanish stating "Tree Protection Zone—Keep Out".
  3. Removal of invasive weeds by non-mechanical means that do not damage soil and tree roots and placement of a 2-inch layer of mulch within the critical root zone.
  4. Preconstruction limb pruning on any tree within the construction zone using ANSI Standard A300 at an appropriate height to avoid damage from construction equipment.
  5. Root pruning using ANSI Standard A300 for any non-structural roots that may be exposed during construction; cutting or damage to the structural root plate is prohibited.
  6. Installation of a temporary bridge over the root system for any tree within the tree protection zone.
  7. Avoidance of any soil disturbance or land development activities within the tree protection zone.
- F. The City Arborist may require the expansion of the critical root zone up to 20%. In no case shall land disturbance activities be conducted within 10 feet of the trunk of a protected tree.
  - G. All tree protection measures shall be installed prior to land disturbance and shall be maintained until after final inspection. The City Arborist or their designated representative shall be contacted for an on-site inspection after tree protection measures are installed and prior to final landscape installation.
  - H. When the City Arborist determines that significant damage has occurred to any protected tree due to either permitted or non-permitted land disturbance activities, the City Arborist shall require that the tree be treated according to professional standards to mitigate the damage.
  - I. If the City Arborist determines that the tree is irreparably damaged due to land disturbance activities, the City Arborist may require that the tree be removed.

#### **Section 17.160.140. Boundary Trees.**

- A. A Boundary Tree Agreement is required for each boundary tree when a Building Permit or Land Disturbance Permit is applied for that will impact more than 20% of the critical root zone. Applicants must submit a Boundary Tree Agreement executed by each boundary tree owner authorizing treatment or removal of any boundary tree. No boundary tree shall be removed without written permission from each boundary tree owner. Signing a Boundary Tree Agreement does not prevent an owner from pursuing additional legal remedies.
- B. Permit applicants must make and document three (3) bona fide attempts in person, by phone, or email to contact each boundary tree owner. If no response is provided, then one attempt by certified mail to each tree owner, with a waiting period of at least 3 weeks for response, is required. A copy of the certified mailing and the

arboricultural tree prescription shall be received by the City Arborist prior to issuance of a Building Permit or Land Disturbance Permit.

- C. If the permit applicant is unable to obtain a Boundary Tree Agreement, then the permit application must be revised to reduce the impact to 20% or less of the critical root zone and a paid arboricultural tree prescription, treatments, and a tree bond shall be provided.
- D. A Boundary Tree Bond is required if no Boundary Tree Agreement was reached, in an amount totaling the estimated cost of removal plus the cost to replace the boundary tree's canopy cover shall be established prior to final inspection.
- E. Boundary tree health and potential for survival shall be determined by the City Arborist. If after 3 years the boundary tree is found dead or determined to be in irreversible decline as a result of the permit holder's disturbance activities, the City Arborist shall authorize the return of bond funds to the adjacent property owner of the subject boundary tree. The City Arborist may also require that the escrow account remain in place for up to an additional 2 years if signs of tree decline are evident but treatment options by the permit holder could be taken to improve tree health and longevity. If after 3 years, the tree is in fair or greater condition the bond amount shall be returned to the permit holder.
- F. Neither the tree owner nor the permit holder shall be entitled to receive interest on any bond funds required by this provision. Any funds not collected by either the boundary tree owner or the permit holder within a period of 5 years shall be deposited in the tree bank.
- G. Recompensation will be required at two (2) times the canopy potential of the boundary tree.

#### **Section 17.160.150. Landmark Trees.**

- A. Any tree may be considered for Landmark Tree designation, establishing it as a public landmark.
- B. Property owners may nominate qualified trees on their own property for Landmark Tree designation by written request to the City Arborist or Director. The nomination will be reviewed by the City Arborist and presented to the Mayor and City Council for acceptance. If the nomination is approved, the Landmark Tree designation shall run with the property and the tree shall not be intentionally removed, destroyed or disturbed.
- C. Criteria for Landmark Tree designation. The tree must be free of untreatable diseases, pests and other serious injury, have a reasonable life expectancy of more than ten (10) or more years, must be free from structural defects that could present a hazard to the public, and must meet at least 2 of the following standards:
  - 1. The tree is demonstrated to have an association with a documented historical event or is located on a historic site.
  - 2. The tree has an unusually high aesthetic value.

3. The tree is of unique or notable character because of its age, species, variety, location, or because of the size and development of its crown, trunk, or main stem.
  4. Minimum DBH of 26" for Medium or Large trees and 10" for Small trees.
- D. Any tree designated as a Landmark Tree will be counted at 1.5 times the existing canopy. If a Landmark Tree no longer meets the Landmark Tree criteria, then a property owner may apply for a tree removal permit and provide an I.S.A. Basic Tree Risk Assessment Form completed by a certified arborist. If the Director and City Arborist approve the removal request, tree canopy replacement requirements must be met.
- E. The Director shall maintain and publish a roster of Landmark trees and shall provide a current roster of Landmark trees to the Mayor and City Council annually.

#### **Section 17.160.160. Plans and Permits.**

- A. The following table lists plan and permit requirements by property type and activity. In the event of ambiguity or inconsistency between the table and other parts of this Section, the provision that results in the greatest protection of trees shall apply.
- B. *Permits Requirement Guide.*
1. *Commercial, High Density Residential, and Institutional (RM-75, RTD, O/I, C-1, C-2, C-3, and MU)*
    - a. Tree Removal
      - 1) Tree Conservation Plan,
      - 2) Tree Removal Permit,
      - 3) Canopy Loss Fee.
    - b. Disturbance of up to 20% or more of critical root zone. Project increases impervious cover or gross floor area or proposes underground utility lines or pipes.
      - 1) Tree Conservation Plan,
      - 2) Land Disturbance Permit or Building Permit,
      - 3) Arboricultural Tree Prescription.
    - c. No Tree Impact. Project increases impervious cover or gross floor or proposes underground utility lines or pipes.
      - 1) No Tree Impact.

2. *Residential (R-200, R-100, R-85, R-75, and R-60)*

- a. Tree Removal. i. Untreatably diseased or dead trees, ii. trees at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner, or iii. Trees at a high to extreme risk of failure that cannot otherwise be mitigated.
  - 1) No net loss, new tree planting required.
- b. Tree Removal. Project increases impervious cover or gross floor area or proposes underground utility lines or pipes.
  - 1) Tree Removal Permit,
  - 2) Canopy Loss Fee,
  - 3) Tree Conservation Plan,
  - 4) Land Disturbance Permit or Building Permit if applicable,
  - 5) No net loss tree planting required.
- c. Disturbance of up to 20% or more of critical root zone. Project increases impervious cover or gross floor area or proposes underground utility lines or pipes.
  - 1) Tree Conservation Plan,
  - 2) Land Disturbance Permit or Building Permit,
  - 3) Arboricultural Tree Prescription.
- d. No Tree Impact.
  - 1) No Tree Impact Statement.

B. The following documents may be required prior to construction:

1. No Tree Impact Statement.

A No Tree Impact Statement is required for any exterior, outdoor, or landscaping construction project where no trees over 6" diameter are proposed to be impacted.

2. Tree Removal Permit.

- a. A Tree Removal Permit is required for any removal or disturbance of a protected tree located on all public and private properties for which a Building Permit or Land Disturbance Permit is not required. Such tree shall be untreatably diseased, dead or at moderate or higher risk of failure with a target present and such risk cannot otherwise be mitigated to an acceptable level as determined by the property owner or to have a high to extreme risk of failure that cannot otherwise be mitigated.
- b. Tree planting required to achieve no net loss of canopy.
- c. A Tree Removal Permit application shall include, at minimum:

- 1) Size of all impacted trees including canopy coverage utilizing the canopy measurement methodology and DBH.
  - 2) A tree replanting plan that shall result in no net loss of canopy on the site.
  - 3) A description of the need for tree removal.
- d. The amount of tree canopy cover removed from the site shall be replaced on site by trees of comparable or greater mature canopy size and species quality to maintain no net loss of tree canopy cover.
  - e. A Tree Removal Permit application must be prepared by a Certified Arborist.
  - f. The City Arborist is responsible for reviewing all tree removal permit applications. When reviewing an application for tree removal, the City Arborist shall consider the following factors, as applicable:
    - i. Reason for removal;
    - ii. Intended use of site where tree is located;
    - iii. Tree species, size and condition;
    - iv. Impact of planned activities on tree health and stability;
    - v. Function and value of tree;
    - vi. Current tree canopy cover on the site;
    - vii. Impact of removal to the site;
    - viii. Impact of removal to the environment;
    - ix. Impact of tree on value of property;
    - x. Potential for replacement of tree canopy elsewhere on the site; and
    - xi. Potential for replacement of tree canopy on the public street right-of-way or other nearby public property.
  - g. No Tree Removal Permit shall be granted unless the following criteria are satisfied:
    - i. A complete application is received;
    - ii. The City Arborist concludes in writing that removal of the tree is permissible, lawful and necessary and will comply with all applicable provisions of the Tree Conservation section.
    - iii. In the event canopy on the site is below minimum canopy requirements, a binding, legally enforceable tree planting plan is made a condition of the permit, to bring the site into compliance with minimum canopy requirements. As a condition of each permit, monitoring and inspection reports shall be submitted to the City demonstrating compliance with above, not less than annually for three years after planting. The City Arborist shall review all monitoring and inspection reports of all tree plantings made under the authority of this section.

3. Tree Conservation Plan.

- a. A conference with the City Arborist is required prior to the submittal of a Tree Conservation Plan or an application for a Land Disturbance or Building Permit sought for any proposed improvement or project that could result in tree disturbance or removal or that would alter soils within the critical root zone of any protected tree. The purpose of the conference is to discuss the objectives and requirements of the tree ordinance and opportunities to preserve existing trees before starting any planning for land disturbance or physical improvements. The conference shall be summarized via a written alternatives analysis submitted with the application.
- b. A Tree Conservation Plan must be submitted with all Land Disturbance and Building Permit applications for any proposed improvement or project that could result in tree disturbance or removal or that would alter soils within the critical root zone of any protected tree. No Land Disturbance or Building Permit shall be issued without an approved Tree Conservation Plan.
- c. A Tree Conservation Plan must be prepared and certified by a registered forester, registered landscape architect, or certified arborist. Tree Ratings shall be done by a certified Arborist or a Registered Forester.
- d. Upon submittal, the Tree Conservation Plan shall be reviewed by the City Arborist and either approved or returned with comments explaining the changes necessary for compliance with this Section. Corrections to be made or reasons for denial shall be noted on the plan, or otherwise stated in writing to the applicant.
- e. A Tree Conservation Plan shall include the following:
  - i. Existing and proposed tree canopy cover for the site, including the percentage of canopy conserved and the percentage of canopy planted;
  - ii. Type and extent of proposed soil disturbance;
  - iii. Percentage of critical root zone (measured at 1.25 x DBH) to be disturbed;
  - iv. Tree survey including all trees 6" DBH or larger with size, species, location, and Tree Rating;
  - v. Protection, impactation, and arboricultural tree prescription measures for all trees to be conserved;
  - vi. For R-60, R-75, R-85, R-100 and R-200 zoned properties, tree replacement plan to maintain no net loss of canopy, including species, caliper and location.
- f. No Tree Conservation Plan shall be approved unless the following criteria are satisfied:
  - i. A pre-application conference is completed and documented via submittal of a written alternatives analysis, and a complete application is received.

- ii. The City Arborist concludes in writing that removal of the tree is permissible, lawful and necessary and will comply with all applicable provisions of this Section.
  - iii. In the event canopy on the site is below minimum canopy requirements, a binding, legally enforceable tree planting plan is made a condition of the permit, to bring the site into compliance with minimum canopy requirements.
- g. Full compliance with an approved Tree Conservation Plan and tree protection measures shall be required and maintained during all phases of construction and prior to the issuance of a Certificate of Occupancy. As a condition of each permit, monitoring and inspection reports shall be submitted to the City demonstrating compliance with Section 17.160.100, above, not less than annually for three years after planting. The City Arborist shall review all monitoring and inspection reports of all tree plantings made under the authority of this section. If the City Arborist determines that tree disturbance results in the substantial damage, decline or death of a protected tree within 3 years after project completion, the removal of the dead or declining tree and replacement of the tree canopy cover shall be required of the permit holder.
- C. *Public Notice.* Upon issuance of a tree removal permit or approval of a tree conservation plan, the applicant shall post a permit placard on the property identifying the location and species of tree(s) affected.
- D. *Relationship with other laws.* Unless considered as part of the variance application, approval of a stream buffer or zoning variance shall not be deemed an exemption to full compliance with this Section. Any project or activity undertaken in connection with receipt of a stream buffer variance or zoning variance must independently comply with all provisions of this Section.

**Section 17.160.170. Administrative Setback Adjustments for Tree Conservation.**

- A. Minimum front, side, and rear yard setbacks for single-family residential properties may be reduced by up to 50% of the setback with the approval of the Director of Community Development where the City Arborist determines such reduction is necessary to preserve good or higher rated trees and their existing soils. Such Administrative Tree Setback Adjustments are limited to one per property per building project in any five-year period.
- B. Appropriate conditions for the Administrative Tree Setback Adjustment shall be imposed to ensure the continued health of subject trees following the granting of such adjustments, including mandatory replacement requirements if the tree were to fail.
- C. Appeals of final decisions of the City Arborist regarding requests for Administrative Tree Setback Adjustments may be taken as provided in Section 17.160.200.

**Section 17.160.180. Utility Company Requirements.**

- A. All utility companies shall be required to submit an annual work plan to the City Arborist by December 1 each year for the following calendar year showing the



proposed location, extent and type of work to be performed, type of tree disturbance that will occur and tree protection measures to be installed to minimize tree impact. The annual work plan shall include a list of subcontractors with names, addresses and City business license numbers. No work within the tree protection zone shall be performed until the annual work plan has been received by the City Arborist.

- B. When changes are required to the annual work plan, notice in writing shall be submitted to the City Arborist for approval prior to the changes taking place. These changes may include, but are not limited to, utility infrastructure installation, repair, and tree removal or disturbance not described in the annual work plan.
- C. All work to be performed on or around protected trees shall be done in accordance with the current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices.
- D. All tree pruning shall be supervised by a Certified Arborist. Pruning cuts shall be made in accordance with ANSI standards. Topping, tipping or heading cuts, flush cuts, and stub cuts shall be prohibited. No climbing spurs or spikes shall be used in trees, except when trees are to be removed or in cases of a public safety emergency, natural disaster or aerial rescue of personnel.
- E. For installation of underground utility conduit, cable, and similar utility lines, directional boring, tunneling, or air excavation tool trenching shall be required in the canopy dripline of any fair or better-rated tree. Poor-rated, untreatably diseased or infested trees should be removed prior to commencement of work. A Tree Removal Permit is required, and removal must be approved by the City Arborist. A tree maintenance bond will be required for any utility work proposed in the critical root zone of an existing moderate or higher rated tree located in a right-of-way or on public property.

#### **Section 17.160.190. Violations and Penalties.**

- A. Violations of this Section may result in the withholding of a Certificate of Occupancy, revocation or revision of a permit, issuance of a stop work order, and/or issuance of a court citation. Upon notification of a violation, a stop work order shall be issued and remain in effect until the violation is addressed. Examples of violations include, but are not limited to:
  - 1. Protected tree removal without a Tree Removal Permit;
  - 2. Soil disturbance or land development without a Land Disturbance Permit or approved Tree Conservation Plan;
  - 3. Violation of the conditions of a Land Disturbance Permit or approved Tree Conservation Plan;
  - 4. Improperly installed or maintained tree protection; and
  - 5. Unauthorized encroachment of a tree protection zone.
- B. When the City Arborist determines that significant damage has occurred to any protected tree due to either permitted or non-permitted land disturbance activities,

the City Arborist may require that the tree be treated by a Certified Arborist according to professional standards to mitigate the damage.

- C. If the City Arborist determines that a tree is irreparably damaged due to land disturbance activities performed without a Land Disturbance Permit or in violation of the conditions of a Land Disturbance Permit or an approved Tree Conservation Plan, the City Arborist shall require that the tree be removed. Such requirement is independent of any penalties, punishment or mitigation requirements imposed by the Municipal Court.
- D. When it is deemed necessary because of continued or repeated violations, the Director may require a performance bond to ensure compliance with the provisions of this Section.
- E. Any person guilty of a violation of this Section shall be punished as provided in Section 1-12 of the Code of Ordinances. In addition to such penalties or in lieu thereof, the Municipal Court may require mitigation in the form of tree replacement, including up to twice the tree canopy cover of the removed tree, canopy loss fees and/or payments to the Tree Bank for replacement of tree canopy cover.

**Section 17.160.200. Appeals.**

- A. Any person aggrieved by a decision of the City Arborist relating to the application of this Section may appeal in writing to the Director. Such appeal shall be filed within 30 days of the date of the written decision of the City Arborist being appealed and shall specify the grounds for appeal. The Director shall provide a decision, in writing, within 30 days of the receipt of the written appeal.
- B. Any person aggrieved by the decision of the Director may file an appeal to the Zoning Board of Appeals pursuant to the provisions of Section 17.92.032.

## CHAPTER 17.170. COMMUNITY DEVELOPMENT FEE SCHEDULE (effective 01/03/2025)

### **Petition Fee Schedule** **FEES ARE NON-REFUNDABLE (No Exceptions)** **Note: Fee Waiver Requires Mayor and Council Action**

The fees for annexation/rezoning/zoning modification/special use permit applications, etc. are based on the site acreage and further described below:

<b>Number of Acres</b>	<b>Residential RA, R-200, R-100, R-85, R-75, R-60</b>	<b>Multi-Family -RM-75, RTD</b>	<b>Office/Commercial/Industrial O-I, C-1, C-2, C-3, M-1, M-2</b>	<b>Mixed Use/PUD</b>
0-5	\$375 + \$25 per acre	\$575 + \$25 per acre	\$675 + \$25 per acre	\$1,000 + \$50.00 per acre
6-10	\$525 + \$25 per acre	\$875 + \$25 per acre	\$1,075 + \$25 per acre	\$1,500 + \$50.00 per acre
11-20	\$875 + \$25 per acre	\$1,275 + \$25 per acre	\$1,475 + \$25 per acre	\$2,000 + \$50.00 per acre
21-50	\$1,075 + \$25 per acre	\$1,575 + \$25 per acre	\$2,075 + \$25 per acre	\$2,500 + \$25.00 per acre
51-100	\$1,575 + \$25 per acre	\$2,075 + \$25 per acre	\$3,075 + \$25 per acre	\$4,000 + \$25.00 per acre
100+	\$1,825 + \$25 per acre	\$3,075 + \$25 per acre	\$4,075 + \$25 per acre	\$4,500 + \$25.00 per acre
Mayor and Council Variance Petition (items not contained in Title 17)			\$300.00	
Planning Commission Appeal			\$300.00	
Board of Zoning Appeals Variance			\$300.00	
Administrative Variance			\$100.00	
Re-advertisement Fee			\$300.00	
Zoning Modification Petition Variance			Refer to above chart	
Special Use Permit			Refer to above Chart	