

## **ARTICLE 14**

### **FLOOD DAMAGE PREVENTION**

CHAPTER 14.1	GENERAL PROVISIONS
CHAPTER 14.2	DEVELOPMENT REGULATIONS
CHAPTER 14.3	ADDITIONAL REQUIREMENTS
CHAPTER 14.4	VARIANCES
CHAPTER 14.5	ADMINISTRATION AND LEGAL STATUS PROVISIONS

### **CHAPTER 14.1**

#### **GENERAL PROVISIONS**

Section 14.1.1.	Short Title
Section 14.1.2.	Findings
Section 14.1.3.	Purposes
Section 14.1.4.	Objectives
Section 14.1.5.	Definitions
Section 14.1.6.	Applicability
Section 14.1.7.	Adoption of Maps and Studies by Reference
Section 14.1.8.	Interpretation of Map Boundaries

#### **Section 14.1.1. Short Title**

This Article shall be known and may be cited as the Flood Damage Prevention Ordinance.

#### **Section 14.1.2. Findings**

The flood hazard areas in the local jurisdictions are subject to periodic inundation which potentially results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

### Section 14.1.3. Purposes

It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosions or in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be prevented from locating within flood plains and/or protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### Section 14.1.4. Objectives

The objectives of this Article are:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- (f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (g) To insure that potential home buyers are notified that property is in a flood area.

### Section 14.1.5. Definitions

Unless specifically defined below or otherwise in this Article, words or phrases used herein shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

**Addition to an existing building:** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

**Appeal:** A request for a review of the Zoning Administrator's interpretation of any provision of this Article.

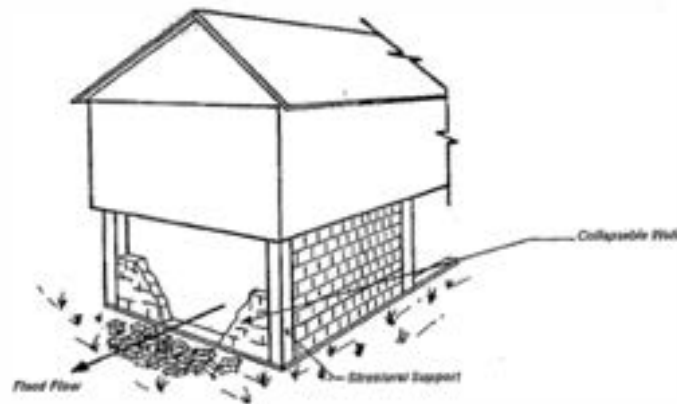
**Area of shallow flooding:** A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of special flood hazard:** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

**Base flood:** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**Basement:** That portion of a building having its lowest floor subgrade (below ground level) on all sides.

**Breakaway wall:** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.



Source: U.S. Department of Housing and Urban Development, Federal Insurance Administration, National Flood Insurance Program, 1977, *Elevated Residential Foundations. Reducing Flood Damage Through Building Design: A Guide Manual*.

**Building:** Any structure built for support, shelter, or enclosure for any occupancy or storage.

**Development:** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

**Elevated building:** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, (posts and piers), shear walls, or breakaway walls.



**Rod-Braced Post House**



**Shear Wall-Braced Post House**

Source: U.S. Department of Housing and Urban Development, Federal Insurance Administration, National Flood Insurance Program, 1977, *Elevated Residential Foundations. Reducing Flood Damage Through Building Design: A Guide Manual*.

**Flood or flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Hazard Boundary Map (FHBM):** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

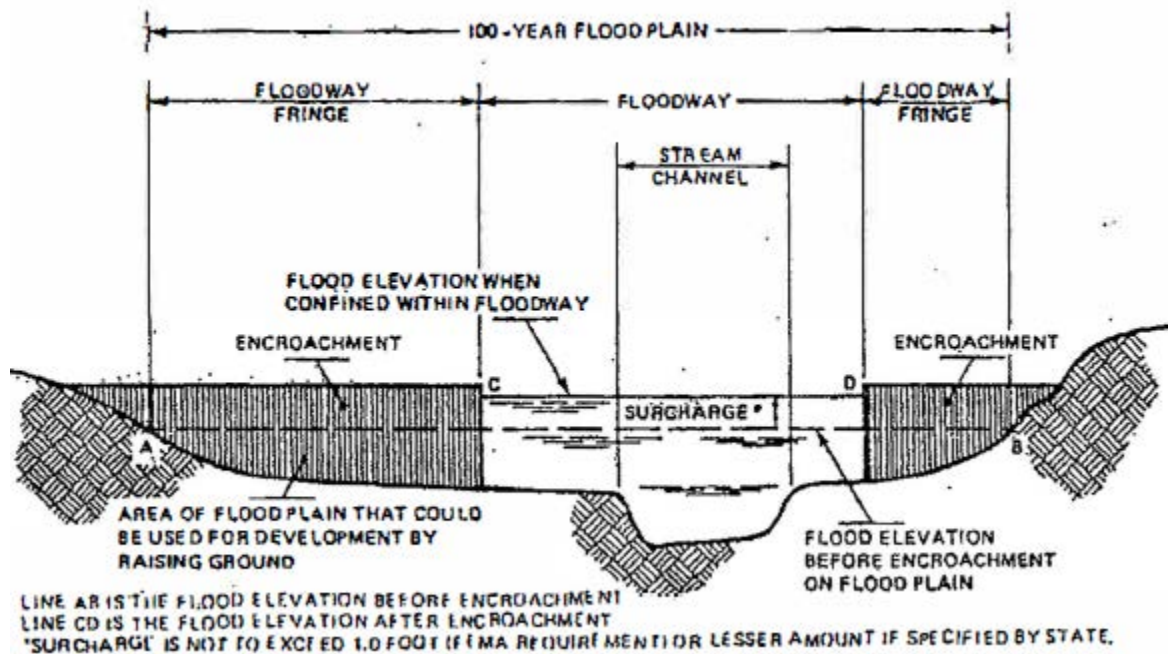


**Illustrative Flood Insurance Rate Map**

Source: Federal Emergency Management Agency. May 1986. Guide to Flood Insurance Rate Maps. Washington, DC: FEMA.

**Flood Insurance Study:** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. Floodways are identified on floodway maps for areas where such mapping has been completed. Floodways are extremely hazardous areas due to the velocity of floodwaters, the carrying of debris, and the capacity for severe erosion potential.



**Floor:** The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**Functionally dependent facility:** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**Highest adjacent grade:** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

**Mean sea level:** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

**National Geodetic-Vertical-Datum (NGVD):** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction:** A building for which the "start of construction" commenced on or after the effective date of this Land Use Management Code.

**Start of construction:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a building on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building.

**Structure:** A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructure. Also see definition of Structure in Article 2 of this Land Use Management Code.

**Substantial improvement:** Any combination of repairs, reconstruction, alteration, or improvements to a building in which the cumulative cost equals or exceeds twenty percent (20%) of the market value of the building. The market value of the building should be the appraised value of the building prior to the start of the initial repair or improvement, or in the case of damage, the value of the building prior to the damage occurring. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

**Variance:** A grant of relief from the requirements of this Article which permits construction in a matter otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.

#### **Section 14.1.6. Applicability**

This Article shall apply to all areas of special flood hazard as defined by this Chapter, as may be identified on the Flood Hazard Boundary Map, Flood Insurance Rate Map, or in the Flood Insurance Study as appropriate within the participating municipalities.

#### **Section 14.1.7. Adoption of Maps and Studies by Reference**

The areas of special flood hazards within participating municipalities identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Maps, Flood Insurance Rate Maps, or in one or more Flood Insurance Studies, as appropriate, with accompanying maps and other supporting data, and any revision thereto, are hereby adopted by reference and declared to be a part of this Article. When base flood elevation data or floodway data are not available, then the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this Article.

#### **Section 14.1.8. Interpretation of Map Boundaries**

Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Zoning Administrator shall make the necessary interpretation although the Zoning Administrator may require an applicant to submit best available data prior to making such a determination. Any person who desires to contest the interpretation by the Zoning Administrator of the location of any such boundary may appeal the interpretation of the Zoning Administrator as provided in Chapter 22.2 of this Land Use Management Code.

## **CHAPTER 14.2 DEVELOPMENT REGULATIONS**

Section 14.2.1.	Permit Required
Section 14.2.2.	Compliance
Section 14.2.3.	Application Requirements for Development
Section 14.2.4.	Application Requirements for New Construction
Section 14.2.5.	Elevation Certificate Required Prior to Building Occupancy
Section 14.2.6.	Floodway
Section 14.2.7.	General Regulations for Construction
Section 14.2.8.	Requirements for Elevating Residential Buildings
Section 14.2.9.	Requirements for Elevating Non-Residential Buildings
Section 14.2.10.	Requirements for Fully Enclosed Areas Below the Base Flood Elevation

### **Section 14.2.1. Permit Required**

No development activity shall commence within an area regulated by this Article until and unless a development permit or building permit, or both if required, shall have been approved by the Zoning Administrator. No development activity shall be approved unless it conforms with the provisions of this Article prior to the commencement of any development activities. No building or structure shall be constructed within an area regulated by this Article until and unless a development permit or building permit, or both if required shall have been approved by the Zoning Administrator. No building or structure shall be approved unless it conforms with the provisions of this Article prior to the construction of said building or structure.

### **Section 14.2.2. Compliance**

No structure shall hereafter be located, extended, converted, or structurally altered, and no land shall be developed or occupied, unless it complies fully with the terms of this Article and other applicable regulations.

### **Section 14.2.3. Application Requirements for Development**

Applications for approval of any development within an area regulated by this Article shall be made to the Zoning Administrator on forms furnished by him or her. Said application shall include plans drawn to scale showing the nature, location, dimensions, and elevations of the land, existing or proposed buildings or structures, if any, proposed fill, and storage of materials, and drainage facilities. For additional requirements for site plans, see Section 13.4.4 of this Land Use Management Code, which shall apply unless one or more submission requirements is waived by the Zoning Administrator.



#### **Section 14.2.4. Application Requirements for New Construction**

Applications for approval of any building or structure within an area regulated by this Article shall be made to the Zoning Administrator on forms furnished by him or her. At a minimum, the application shall include the following:

- (a) **Elevations:** If permitted within a flood plain, the elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings.
- (b) **Flood-proofing certificate:** In the case of a building that is required to be flood-proofed by this Article, a certificate from a registered professional engineer or architect that the building to the flood-proofed will meet the flood-proofing requirements of this Article.

#### **Section 14.2.5. Elevation Certificate Required Prior to Building Occupancy**

No building shall be occupied until the requirements of this Section are met. After the lowest floor of a building is completed, after placement of the horizontal structural members of the lowest floor, or upon placement of the lowest floor to be flood-proofed, whichever is applicable, it shall be the duty of the permit holder to submit to the Zoning Administrator a certification of the as-built elevation in relation to mean sea level of the lowest floor, the elevation of the lowest portion of the horizontal structural members of the lowest floor, or a flood-proofed elevation, whichever is applicable. Said certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. Upon submittal of any required elevation certificate, the Zoning Administrator shall review the floor elevation certificate for compliance with this Article. The permit holder immediately and prior to authorization to proceed with further work shall correct any deficiencies detected by such review. Failure to submit the elevation certificate or failure to make any corrections required by the Zoning Administrator shall be cause for issuing a stop-work order on the project.

#### **Section 14.2.6. Floodways**

Encroachments, including fill, new construction, substantial improvements, or any other development, structure, or building, shall be prohibited.

### **Section 14.2.7. General Regulations for Construction**

New habitable buildings or structures and related development or facilities in all areas of special flood hazard shall be prohibited. In all areas of special flood hazard, any alteration, repair, reconstruction, or improvements to an existing building in an area of special flood hazard shall meet the requirements of this Section.

- (a) They shall be anchored to prevent floatation, collapse or lateral movement of the structure.
- (b) They shall be constructed with materials and utility equipment resistant to flood damage, and by methods and practices that minimize flood damage.
- (c) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (f) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. On-site waste disposal systems for new dwellings shall be prohibited in all areas of special flood hazard.

### **Section 14.2.8. Requirements for Elevating Residential Buildings**

In all areas of special flood hazard where base flood elevation data have been provided, substantial improvements of any residential building which existed in an area of special flood hazard at the time of adoption of this Article shall have the lowest floor, including basement, elevated no lower than two (2) feet above the base flood elevation. If solid foundation perimeter walls are used to elevate a residential building (substantial improvement), openings sufficient to facilitate the unimpeded movements of flood water shall be provided as required by this Article.

### **Section 14.2.9. Requirements for Elevating Non-residential Buildings**

In all areas of special flood hazard where base flood elevation data have been provided, substantial improvements of any institutional, commercial, industrial, or other non-residential building which existed in an area of special flood hazard at the time of adoption of this Article shall have the lowest floor, including basement, elevated no lower than two (2) feet above the level of the base flood elevation. Substantial improvement of existing buildings located in all A-zones may be flood-proofed in lieu of being elevated as required by this Section, provided that all areas of the substantial improvement below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this Section are satisfied. Such certification shall be provided to the Zoning Administrator.

#### **Section 14.2.10. Requirements for Fully Enclosed Areas Below the Base Flood Elevation**

Substantial improvements of elevated buildings which existed in an area of special flood hazard at the time of adoption of this Article that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall not be designed or used as finished space. In addition, said fully enclosed areas shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls, in accordance with the following requirements:

- (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than one (1) foot above grade.
- (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
- (d) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- (e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (f) A professional engineer or architect shall certify that the designs of substantial improvements regulated by this Chapter, which includes fully enclosed area formed by foundation and other exterior walls below the base flood elevation, complies with the requirements of this Section, prior to occupancy of the substantial improvement.

## **CHAPTER 14.3**

### **ADDITIONAL REQUIREMENTS**

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|-----------------|--|
| Section 14.3.1. | Requirements for Streams Without Established Base Flood Elevation and/or Floodways |
| Section 14.3.2. | Requirements for Areas of Shallow Flooding (AO Zones)                              |

#### **Section 14.3.1. Requirements for Streams Without Established Base Flood Elevation and/or Floodways**

There are certain areas of special flood hazard where small streams exist but where no base flood data have been provided or where no floodways have been provided. In such areas, a determination shall be made by a registered professional engineer of the best available estimate of the flood elevation.

No encroachments shall be allowed except for substantial improvements of existing buildings and structures which existed in said area of special flood hazard on the effective date of this Article. Approval for substantial improvements to existing buildings and structures which existed in said area of special flood hazard on the effective date of this Article shall only be permitted if certification by a registered professional engineer is provided and approved by the Zoning Administrator, demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Substantial improvements of buildings which existed on the effective date of this Article within such areas shall be elevated or flood-proofed to elevations established by this Chapter.

#### **Section 14.3.2. Requirements for Areas of Shallow Flooding (AO Zones)**

Located within the areas of special flood hazard are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In such areas the following regulations shall apply:

- (a) **Residential buildings-** No encroachments shall be allowed except for substantial improvements of existing buildings and structures which existed in said area of shallow flooding on the effective date of this Article. All substantial improvements of residential buildings which existed in said area of shallow flooding on the effective date of this Article shall have the lowest floor, including basement, elevated to a height of one (1) foot above the elevation of shallow flooding.
- (b) **Nonresidential buildings-** No encroachments shall be allowed except for substantial improvements of existing buildings and structures which existed in said area of shallow flooding on the effective date of this Article. Substantial improvements of non-residential buildings which existed in said area of shallow flooding on the effective date of this Article shall have the lowest floor, including basement, elevated to a height of one (1) foot above the elevation of shallow flooding. In addition, any attendant utility and sanitary facilities shall be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

## CHAPTER 14.4

### VARIANCES

Section 14.4.1.	Variances Authorized
Section 14.4.2.	Criteria for Approving Variances
Section 14.4.3.	Additional Limitations on Variances
Section 14.4.4.	Requirements When Variances are Granted

#### **Section 14.4.1. Variances Authorized**

The Governing Authority shall have the authority to hear and decide any requests for variances from the requirements of this Article. Upon consideration of the criteria for approving variances as provided by this Article, the Governing Authority may approve or deny applications for variances. The Governing Authority may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Article.

#### **Section 14.4.2. Criteria for Approving Variances**

In ruling on applications for variances, the Governing Authority shall consider all technical evaluations, all relevant factors, all regulations specified in this Article, and the following criteria:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;
- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

### **Section 14.4.3. Additional Limitations on Variances**

- (a) Variances shall not be issued for building, structures, or other encroachment within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (c) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

### **Section 14.4.4. Requirements When Variances are Granted**

Any applicant to whom a variance is granted shall be given written notice by the Zoning Administrator specifying the exact provisions of this Article varied along with a determination of the difference between the base flood elevation and the elevation to which the building or substantial improvement is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation if applicable. The Zoning Administrator shall maintain the records of all variances and submit them to the Federal Emergency Management Agency upon request.

## **CHAPTER 14.5**

### **ADMINISTRATION AND LEGAL STATUS PROVISIONS**

Section 14.5.1.	Administration and Duties of the Zoning Administrator
Section 14.5.2.	Warning and Disclaimer of Liability

#### **Section 14.5.1. Administration and Duties of the Zoning Administrator**

This Article shall be administered by the Zoning Administrator. The Zoning Administrator shall have the following duties in connection with the administration of this Article:

- (a) Review all permit applications to assure that the permit requirements of this Article have been satisfied.
- (b) Advise applicants that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the locally approved permit.
- (c) Notify adjacent affected communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- (d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (e) Receive and review elevation certificates and floodproofing certificates for all new or substantially improved buildings, for compliance with this Article.
- (f) Interpret the provisions of this Article. In the interpretation and application of this Article all provisions shall be considered as minimum requirements. They shall be liberally construed in favor of the governing body with jurisdiction, and the provisions of this Article shall not be deemed to limit or repeal any other powers granted under state statutes.
- (g) Maintain all records pertaining to the provisions of this Article, which shall be open for public inspection.

#### **Section 14.5.2. Warning and Disclaimer of Liability**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the participating municipalities or by any officer or employee thereof for any flood damages that result from reliance on this Article, or any administrative decision lawfully made under its terms.

## **ARTICLE 15**

### **REGULATIONS FOR MANUFACTURED HOMES**

#### **CHAPTER 15.1**

#### **REGULATIONS FOR MANUFACTURED HOMES**

### **CHAPTER 15.1**

### **REGULATIONS**

Section 15.1.1.	Building permit required
Section 15.1.2.	Proof of tax payment a condition of permit
Section 15.1.3.	Permit application procedures
Section 15.1.4.	Provisions for temporary power after the issuance of a building permit
Section 15.1.5.	Manufactured home minimum construction standards
Section 15.1.6.	Manufactured homes not meeting minimum construction standards
Section 15.1.7.	Manufactured home installation requirements
Section 15.1.8.	Process of inspection for manufactured homes.
Section 15.1.9.	Replacement of existing manufactured and mobile homes

#### **Section 15.1.1. Building permit required**

No mover, hauler, or person shall move a manufactured home to any location beyond the limits of the lot or parcel of land upon which it presently is located, or upon which it was originally located, whether existing within or without the city limits, to a lot or parcel of land located within the City limits, without first obtaining a building permit from the City of Maysville available at city hall . No building permit shall be issued unless the person, firm, corporation or other entity moving the manufactured home specifies the new location to which it is to be moved and provides a site plan showing the approximate location of the home and that all utilities , including electrical, water and sewer or permitted septic system are available at the site in accordance with Sections 3 and 4 below. Any failure to secure a building permit required by this section shall be in violation of this chapter.

#### **Section 15.1.2. Proof of tax payment a condition of permit**

It shall be a condition precedent to issuance of any building permit required by this chapter that the owner of said or manufactured home submit to the aforesaid building department proof that all state, county and city taxes theretofore accruing and payable with respect to such or manufactured home have in fact been paid.



### **Section 15.1.3. Permit application procedures**

- (a) All manufactured homes must be located at an approved site. This approval is obtained by the issuance of a building permit and a sanitary permit for wastewater hookup for that site. A building permit application is available at the Maysville City Hall and the sanitary permit application is available at the county health department. A building permit to move a manufactured home into or within the city shall not be issued until the building and sanitary permits have been issued. Upon the issuance of the above permits, manufactured home may be moved into the city or within the city and installed for occupancy. Installation must comply with the Rules and Regulations for Manufactured Homes made and promulgated by the [State of] Georgia Safety Fire Commissioner pursuant to the authority set forth in O.C.G.A. §§ 8-2-135; 8-2- 137(b); 8-2-161; 8-2-162; 8-2-165; 8-2-168 and 25-2 in order to obtain approval and to obtain permanent electrical service. A certificate of occupancy shall be issued indicating compliance with all applicable codes before any person or persons are authorized to occupy any newly installed manufactured home.
- (b) For purpose of this section, the building official shall issue the aforementioned building permit, and the health department shall issue the aforementioned sanitary permit. These permits shall be considered separate permits.

### **Section 15.1.4. Provisions for temporary power after the issuance of a building permit**

The building official is authorized to permit the applicable power company to provide temporary power not to exceed 110 volts for the express purpose of completing necessary installation of the or manufactured home. This provision specifically does not authorize permanent power hookup or occupancy of the or manufactured home. It shall be unlawful for temporary power to be utilized on a permanent basis or for occupancy of said home.

### **Section 15.1.5. Manufactured home minimum construction standards**

- (a) Each newly installed mobile home or manufactured home in the city shall conform to the minimum construction standards required by the U.S. Housing and Urban Development, as required by the National Mobile Home and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et. seq., before that manufactured home is entitled to a CO or to receive any permanent utility service to said manufactured home. It is the intent of this section of this chapter to prohibit moving mobile homes or manufactured homes into the city that do not conform to the applicable U.S. Housing and Urban Development Department's construction standards, as expressed in 42 U.S.C. Section 5401, et. seq. and regulations established pursuant to that Act. To that end, no manufactured home shall be eligible to locate for permanent or temporary occupancy in this city unless that manufactured home complies with the minimum construction standards required by the U.S. Housing and Urban Development Department and has been inspected by the building inspection department to insure that all windows, doors, smoke detectors, plumbing systems, electric systems, heating system and ventilation system are in working order, the general soundness of the manufactured home shall be acceptable with all roofing, siding and paneling, tie downs or permanent foundation. stairs. decks and porches for safe access are completed and in their proper place.

- (b) In the event said manufactured home was manufactured prior to U. S. Housing and Urban Development construction standards and cannot be modified or rebuilt to meet those standards, said manufactured home shall not be allowed to locate or relocate for permanent or temporary occupancy in this city, and said manufactured home shall not be freely transferable and relocated in the city except as provided in subsection (d) of this section.
- (c) No person may occupy a home described in this section after the effective date of Month Date, 2019, without a certificate of occupancy issued by the building inspection department. The building inspection department shall issue a certificate of occupancy within five working days after satisfactory final inspection.
- (d) Minimum health and safety standards. All pre-owned manufactured homes shall comply with the following before being issued a certificate of occupancy by the building inspector.
  - (1) **HUD code** - Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401-5445 (the HUD code) and shall not have been altered in such a way that the home no longer meets the HUD code.
  - (2) **Interior condition**- Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Doors and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration.
  - (3) **Exterior condition**- The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.
  - (4) **Sanitary facilities**- Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected, and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom shall contain a lavatory and water closet. At least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked by the building inspector upon being connected to ensure they are in good working condition.
  - (5) **Heating systems**- Heating shall be safe and in working condition. Un-vented heaters shall be prohibited.

- (6) **Electrical systems** - (switches, receptacles, fixtures, etc.) shall be properly installed and wired and shall be in working condition. Distribution panels shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. The home shall be subject to an electrical continuity test to assure that all metallic parts are properly bonded. Each pre-owned manufactured home shall contain a water heater in safe and working order.
- (7) **Hot water supply**- Each home shall contain a water heater in safe and working condition.
- (8) **Egress windows**- Each bedroom of a manufactured home shall have at least one operable window of sufficient size to allow egress if necessary.
- (9) **Ventilation** - The kitchen in the home shall have at least one operating window or other ventilation device.
- (10) **Smoke detectors** - Each pre-owned manufactured home shall contain one operable battery- powered smoke detector in each bedroom and in the kitchen, all - of which must be installed in accordance with the manufacturer's recommendations.

#### **Section 15.1.6. Manufactured homes not meeting minimum construction standards**

A manufactured home that does not meet the requirements of this chapter and said manufactured home is located in the city and was manufactured prior to U. S. Housing and Urban Development construction standards may be transferred to a licensed dealer authorized to buy and sell manufactured homes for location at said dealer's place of business for sale or transfer outside of the City. In no event shall this exception allow any person to live in said manufactured home or to allow said home to receive any utility service.

#### **Section 15.1.7. Manufactured home installation requirements**

A pre-owned manufactured home that does not meet the minimum health and safety standards of this chapter may be transferred to a licensed dealer authorized to buy and sell manufactured homes for location at said dealer's place of business for sale or transfer outside of the City. In no event shall this exception allow any person to live in said manufactured home or to allow said home to receive any utility service.

### Section 15.1.8. Process of inspection for manufactured homes

- (a) **Foundation-** The building official shall require the foundation to be inspected to ensure compliance with the rules and regulations for manufactured homes made and promulgated by the [State of] Georgia Safety Fire Commissioner as they now exist and as amended from time to time. These rules and regulations for manufactured homes are incorporated as a part of this chapter by reference.
- (b) **Plumbing-** The building official shall require the external plumbing system to be inspected, including water and sewage connections, to ensure compliance with the rules and regulations for manufactured homes and the 2000 Georgia State Plumbing Code, as it now exists or as hereinafter amended.
- (c) **Stairs and landings-**
  - (1) The building official shall require stairs and landings to comply with Section 1112- Stairway Construction of the Georgia State Building Code as may be subsequently revised: The height of the riser shall not exceed 7¾ inches, and treads, exclusive of nosing, shall be not less than nine inches wide. Every tread less than ten inches wide shall have a nosing, of effective projection, or approximately 1 inch over the level immediately below the tread. The width of the landings still is not less than the width of stairways they serve. Every landing shall have a minimum dimension measured in the direction of travel equal to the width of the stairway. Such dimension need not exceed four foot when the stair has a straight run.
  - (2) All stairways having treads located more than 30 inches above a floor or grade shall be equipped with handrail located not less than 30 and not more than 34 inches above the leading of a tread. The minimum width of any stair serving as a means of egress shall be a minimum of 36 inches.
- (d) **Electrical-** The building official shall require inspection of the electrical system to ensure compliance with the Rules and Regulations for Manufactured Homes and the 1999 National Electrical Code, as may be subsequently revised.
- (e) **Gas-** The building official shall require inspection of the gas system to ensure compliance with the 2000 Standard Code as may be subsequently revised.
- (f) Until the above inspections have been completed and the manufactured home is found to be in compliance with all applicable codes, no permanent power may be installed, and no occupancy shall be permitted. Occupancy is permitted upon issuance of the certificate of occupancy.

### Section 15.1.9. Replacement of existing manufactured and mobile homes

Notwithstanding any other provision of this chapter, when there is a replacement of a preexisting manufactured or mobile home with a new home on any residential land, the City of Maysville may not require the replacement home meet all the current zoning regulations. If the replacement is a new, never titled or lived in manufactured home, the replacement must be of equal or better type and equal or greater size than the one being replaced.

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## **ARTICLE 17**

### **SIGN REGULATIONS**

CHAPTER 17.1	FINDINGS AND OBJECTIVES
CHAPTER 17.2	DEFINITIONS
CHAPTER 17.3	GENERAL PROVISIONS
CHAPTER 17.4	NONCONFORMING SIGNS
CHAPTER 17.5	PERMITTING OF SIGNS
CHAPTER 17.6	SIGNS PERMITTED BY ZONING DISTRICT AND DIMENSIONAL REQUIREMENTS

### **CHAPTER 17.1**

#### **FINDINGS AND OBJECTIVES**

Section 17.1.1.	Signs Perform Several Beneficial Functions
Section 17.1.2.	Signs are an Economic Investment
Section 17.1.3.	Sign Regulations Promote Public Safety
Section 17.1.4.	Sign Regulations Promote Public Health
Section 17.1.5.	Sign Regulations Promote Public Welfare
Section 17.1.6.	Sign Regulations Promote Fair Competition Among Businesses
Section 17.1.7.	Sign Regulations Advance Community Aesthetics
Section 17.1.8.	Objectives

#### **Section 17.1.1. Signs Perform Several Beneficial Functions**

Signs provide directional and informational messages in aid of safe wayfinding. Signs provide a visual, place-based medium by which to express messages. Signs are an effective, easily available, and cost-efficient way to inform consumers and aid their decision-making. Signs are an effective and cost-efficient way to express opinion or support of political candidates and referenda.

#### **Section 17.1.2. Signs are an Economic Investment**

Signs represent an economic investment that brings economic value to businesses. They provide a point-of-purchase means for attracting consumers who are not otherwise familiar with the geographic area. They provide assistance in making consumer selections among alternative choices. Signs help certain locations work from a profitability standpoint that otherwise might fail without adequate signage. Signs that are designed with proper size, height, placement, and lighting with appropriate legibility do not hinder traffic safety.

### **Section 17.1.3. Sign Regulations Promote Public Safety**

Sign regulations achieve public safety rationales not achieved by the standard building code. Without a sign ordinance, signs can pose a clear danger to public safety. It has long been recognized that sign controls are needed to promote traffic safety and avoid traffic accidents.

Signs too close to the road can impair visibility and cause traffic accidents. The placement of signs can interfere with the sight of motorists trying to exit a driveway onto a public road. Without regulation, signs can be placed dangerously close to right-of-ways in locations where they might be struck by an oncoming vehicle using the road or having to veer off the road. These sign regulations contain location and other time, place, and manner restrictions that serve substantial public purposes of traffic safety.

Signs by their very nature are intended to gain the attention of motorists and therefore distract them from the primary purpose of maneuvering a vehicle along a road. To the extent that signs capture sight and attention, they distract motorists. The regulation of signs is needed to ensure that signs can be read for their many beneficial public purposes but in a way that does not impair visibility and cause traffic accidents. Location, height, size, type, and other regulations contribute toward these substantial public purposes of promoting public safety.

Signs, if unregulated, can confuse motorists by mimicking traffic safety signals and signs. Motorists might confuse signs that contain flashing or blinking red, green, or yellow lights with roadway traffic signals. Signs constructed of shapes like an octagonal "stop" sign might also impair public safety by confusing the motorist. Therefore, there is a substantial public purpose served in prohibiting signs that mimic or would be confused with traffic safety signals and signs. Unregulated signs can also degrade the utility and reduce the visibility and effectiveness of public safety signs.

Limitations on window signs can increase visibility from outside a building and may help deter crime and robberies. Sign controls that limit the amount of storefront window and door areas that can be covered with signs enhance visibility of activities within the store or building. Limits on window signs can provide for an appropriate minimum of exterior visibility and may increase public safety of commercial areas through a reduction in crime potential.

### **Section 17.1.4. Sign Regulations Promote Public Health**

Characteristics of the roadside landscape may influence the stress levels of motorists. Commercial signage contributes to the experiences of motorists. A study has shown that roadside blight can contribute to high stress levels of motorists (Meg Maguire, Ray Foote, and Frank Vespe. 1997. "Beauty As Well As Bread." *Journal of the American Planning Association* 63, 3: 317-328). Unregulated signage can contribute to the clutter and lack of organization in the wayfinding system of a community and thereby negatively influences the stress levels of motorists. Height, size, place, and other sign regulations serve substantial public purposes of bringing order to the wayfinding system that may help to avoid undue stress levels of motorists.

### **Section 17.1.5. Sign Regulations Promote the Public Welfare**

Signs can degrade property values. A principal purpose of land use regulations, including sign controls, is to protect and preserve property values. As planner Fred Bair notes, "There is no question that signs may affect the character of districts and the value of buildings, or that they are not appropriate in different parts of a town" (Bair Jr., Frederick H. 1979. *Planning Cities*. Chicago: American Planning Association, pp. 244-254).

The size, height, construction materials, location, condition, and attributes of signs can have an impact on surrounding and nearby land uses. For instance, if signs were unregulated, large, tall signs could be erected in single-family residential districts. Such signs, if erected, would be out of character with residential neighborhoods and could result in the lowering of property values for residential use. As another example, blighted signs and antiquated signs and sign structures (e.g., a pole with a blank structure for a sign face) can contribute to an overall image of blight and a reduction of property values in declining areas, if not regulated by sign controls. Regulations are needed to ensure that signs are compatible with their surroundings and do not take away from the character of particular districts.

Signage is a form of advertising. All other advertising mediums are regulated. There is little in the way of federal and state regulation of signs, despite a significant presence by the federal government in the regulation of other forms of communication. Signage is a type of advertising that cannot be turned off or rejected by the consumer, like other forms of communication. For instance, radio and television advertisements can be avoided by turning off the radio or television. With regard to signs, however, motorists must keep eyes open to drive and cannot block out signs from their peripheral vision. Absent federal and significant state regulation, it is in the public interest for local governments to control signage.

Signs derive their value in part from public improvements. Businesses exist and prosper in part because consumers have access to their locations via public rights-of-ways. Businesses locate, and signs are constructed, because of the access the community provides to business locations. The public way creates much of the value for the person erecting the sign, and visibility from the public way is what creates the problems which give rise to the need for sign controls. Because the public way contributes to value, the public therefore has a right, and indeed an obligation, to control the problems that arise from creating that value.

Unregulated signs adversely impact public investments. Sign regulations help to assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets and other public structures and spaces are protected. Unregulated signs can neutralize streetscape investments.

### **Section 17.1.6. Sign Regulations Promote Fair Competition Among Businesses**

Sign regulations benefit businesses that seek to advertise. Unregulated commercial signage can be detrimental to individual businesses because business owners often feel compelled to erect larger and more costly signs to outdo their neighboring businesses. Such competition for visibility among businesses can result in too many signs, to a point of diminishing returns where individual business signs are not adequately visible. If unregulated, the competition for visual recognition can defeat the purpose of the signs, which is to carry a message, usually a commercial one. If signs are left unregulated, patrons of individual businesses may miss their destinations because they cannot find the particular business in the sea of advertising devices.



### **Section 17.1.7. Sign Regulations Advance Community Aesthetics**

Sign regulations promote and ensure the aesthetics of the community. The concept of public welfare is broad and inclusive, and the values it represents are spiritual as well as physical, aesthetic as well as monetary. Sign regulations serve the substantial public purposes of ensuring that the community is beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully controlled (Berman v Parker 348 U.S. 26, 75 S. Ct. 98, 99 L. Ed. 27 1954).

Sign regulations help maintain and protect the unique character of the community. The appearance of the community, which is substantially influenced by signs, is essential to the city's long-term economic viability and helps determine how residents and visitors alike perceive it. Sign controls, including regulations that go beyond simple size, height, location, and manner restrictions, are necessary to improve the visual character and quality of life of the community.

### **Section 17.1.8. Objectives**

The objectives of this Article include but are not limited to the following:

1. Provide a reasonable balance between the right of an individual to identify his or her business or express their thoughts and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and advertising devices.
2. Guard against an excess of large, aesthetically unappealing, intense signs which cause visual blight on the appearance of the community. Visual blight adversely affects the aesthetic quality of life and traffic safety in the community for residents, businesses, pedestrians, and persons in vehicles.
3. Protect the public health, safety and general welfare while protecting the rights of sign owners to expression and identification.
4. Provide regulations that vary the sign area based on the type of land use and zoning district, and based on need which is determined in part by the type of road frontage to which signage is directed.
5. Provide regulations which are content-neutral. It is not the intent to regulate the content of messages in any way. To accomplish this, these regulations do not distinguish between on-site or off-site sign content, nor do they distinguish between commercial and non-commercial content. Any sign permitted pursuant to this Article may contain commercial or non-commercial content. Sign allowances in this Article take into account the needs for off-premise signs and signs carrying messages of a non-commercial character.
6. Protect property values by minimizing the possible adverse effects and visual blight caused by signs.
7. Insure that signs are compatible with adjacent land uses and with the total visual environment of the community.
8. Eliminate excessive and confusing sign displays.
9. Preserve and improve the appearance of the community as a place in which to live and to work and as an attraction to nonresidents who come to visit or trade.

## CHAPTER 17.2 DEFINITIONS

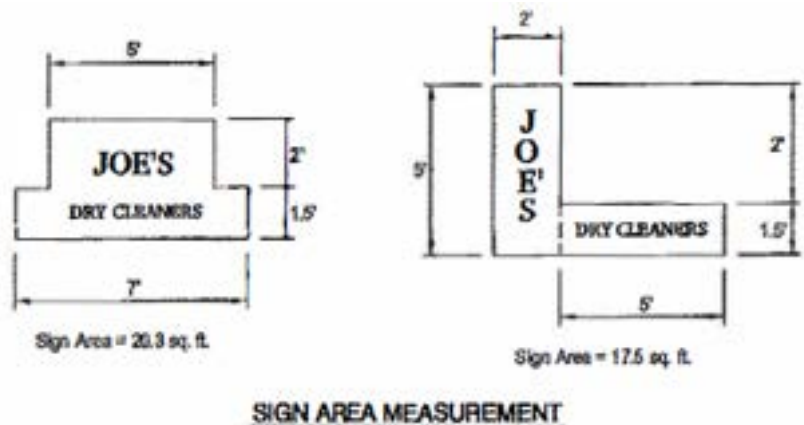
For the purposes of this Article, certain terms and words are hereby defined. As used in this Article, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

**Abandoned sign:** A permanent principal use sign on property containing a building or activity that has ceased operations. Permanent principal use signs on property shall be considered abandoned when there is clear evidence that a business or activity has vacated the building or grounds; provided, however, that this definition shall not apply to any case where a business or activity is temporarily suspended and there is evidence that the business or activity will resume operations within a six-month period.

**Advertising device:** Any structure or device erected or intended for the purpose of displaying advertising situated upon or attached to real property. For purposes of this Article, an advertising device is a "sign."

**Animated sign:** A sign with action, motion, sound, or changing colors which accomplishes such action, motion, sound, or changing colors with or without electrical energy. This includes signs with lights or other illuminating devices that blink, flash, fluctuate, or have a changing light intensity, brightness, or color. This definition does not include a "swinging sign" or "multiple message sign" as defined by this Article.

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



For double-faced signs, only the largest display face shall be measured in computing the sign area, or only one face shall be measured in computing sign area if the display faces are the same size. The display of street address on a ground sign, wall, or window shall not be computed in determining the maximum allowable area of a ground, wall, or window sign.

**Awning:** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

**Awning sign:** An awning that contains letters, numbers, symbols, pictures, logos, or visual display, or other communication, attached, painted on, or made an integral part of an awning. For purposes of this Article, "awning signs" shall be considered "wall signs."

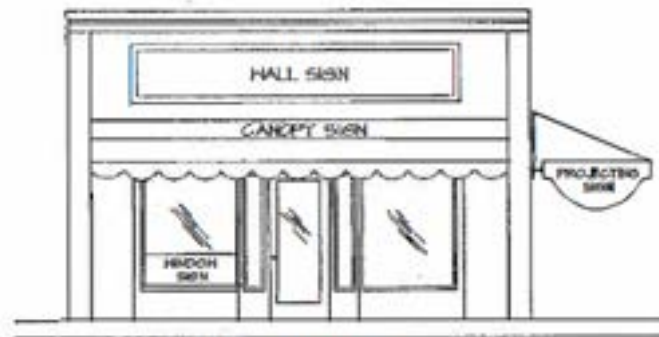
**Banner:** A sign with or without characters, letters, illustrations, or ornamentation applied to cloth, paper, plastic, or natural or synthetic fabric of any kind with only such material for a backing. For purposes of this Article, a "banner" is a "sign."

**Building marker:** Any sign cut into a masonry surface or made of bronze or other permanent material and which relates to its construction.

**Canopy, attached:** A multi-sided structure or architectural projection supported by attachment to a building on one or more sides and also supported by columns at additional points. Signs placed on attached canopies are considered "wall signs" for the purposes of this Article.

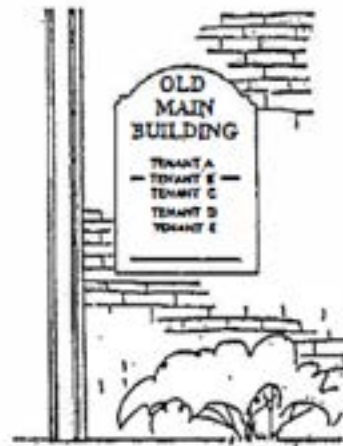
**Canopy, freestanding:** A multi-sided structure or architectural projection supported by columns. Signs placed on freestanding canopies are considered "wall signs" for the purposes of this Article.

**Canopy sign:** A sign on a canopy. For purposes of this Article, a sign on a canopy is a "wall sign" (see figure, "Types of Attached Signs").



TYPES OF ATTACHED SIGNS

**Directory sign:** A sign which is allowed on a premise with more than one tenant or occupants of a building. It may be freestanding or attached (wall).



Wall Directory Sign

**Double-faced sign:** A sign which has two (2) display areas against each other or where the interior angle formed by the display areas is sixty (60) degrees or less, where one face is designed to be seen from one direction and the other face from another direction. Only one face shall be used in computing allowable sign area.

**Erect:** To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or the normal maintenance or repair of a sign structure.

**Flag:** For purposes of this Article, except as otherwise provided herein, a “flag” is a “sign.”

**Frontage, building:** The width in linear feet of the front exterior wall of a particular building in which an establishment is located.

**Frontage, road:** The distance in linear feet of each lot where it abuts the right-of-way of any public street.

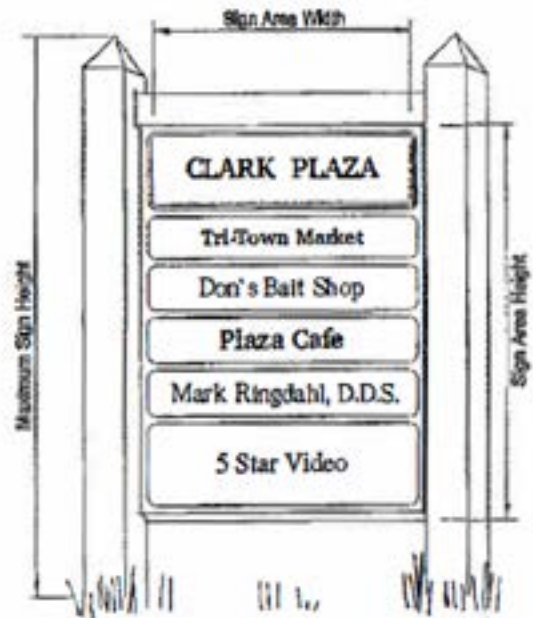
**Ground sign:** A permanently affixed sign which is wholly independent of a building for support (i.e., freestanding). A ground sign may consist of more than one sign panel, provided all such sign panels are attached to or integrated into one sign structure.

**Height of sign:** The distance in vertical feet from the ground to the highest point of the sign, whether that highest point is the frame of the sign face or panel or the support of the sign.

**Holiday decorations:** Displays erected on a seasonal basis in observance of religious, national, or state holidays, which are not intended to be permanent.

**Internally illuminated sign:** A sign illuminated by an internal light source which is viewed through a translucent panel.

**Inflatable sign:** Any sign that is or can be filled with three (3) cubic feet or more of air or gas.



**Marquee:** A roof-like structure attached to and supported by a building wall (with no vertical supports) and that projects in a cantilever fashion from the wall of a building.

**Marquee sign:** A sign painted on, attached to, or hung from a marquee. For purposes of this Article, marquee signs shall be considered "wall signs."

**Monument sign:** A sign where the structural part of the sign below the sign face encompasses an area at least forty (40) percent of the area of the sign face but no more than 1.5 times the area of the sign face, and which is composed of brick, stone, or other material approved by the Zoning Administrator.

**Multiple message sign:** A sign, display, or device which changes the message or copy on the sign electronically by movement or rotation of panels or slats.

**Nonconforming sign:** Any sign which lawfully existed on the effective date of this Article but which does not conform to the provisions of this Article, or which does not comply with this Article due to amendments to this Article since the date of erection of the sign.

**Pennant:** A small, triangular or rectangular flag or multiples thereof, made of lightweight plastic, fabric, or other material, individually supported or attached to each other by means of a string, rope, or other material and meant to be stretched across or fastened to buildings, or between poles and/or structures, and which is designed to *move* in the wind. For purposes of this Article, pennants are "signs."

**Portable sign:** Any sign whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols (i.e., a changeable copy sign). Even if the wheels or supports of such sign are *removed* and the sign converted and attached, temporarily or permanently, to the ground or other structure, said sign shall remain a portable sign.

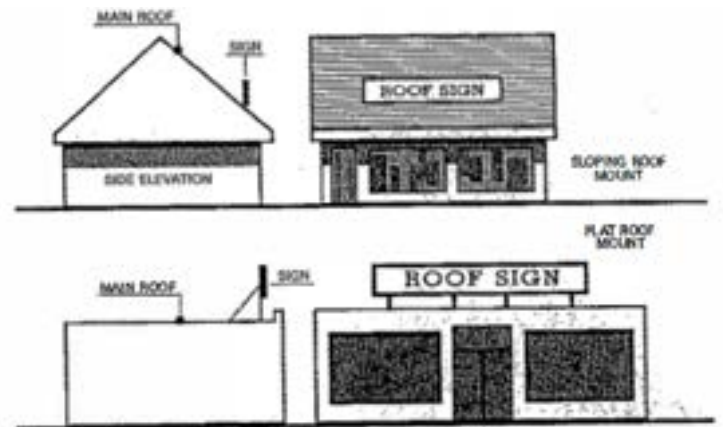
**Portico:** A porch or walkway, open to the outside air, that is *covered* by a roof supported by columns or pillars, typically leading to the entrance of a building. Signs attached to porticos are considered "wall signs" for purposes of this Article.

**Principal use sign:** Any notice or advertisement, which is permitted in conjunction with a principal use or principal building or use located on the property, and which may display a noncommercial, commercial, or other message, the content of which is not regulated by this Article.

**Projecting sign:** A sign projecting more than fourteen (14) inches from the outside wall or walls of any building, or canopy, portico, or awning, upon which it is located (see also figure, "Types of Attached Signs").

**Roof sign:** A sign projecting higher than the front building wall or any sign supported by or attached to said roof.

**Sidewalk sign:** A movable sign not secured or attached to the ground or surface upon which it is located.



Source: United States Sign Council, 2001, *Guideline Code for Regulation of On-Premise Signs*.

**Sign:** A lettered, numbered, symbolic, pictorial, or illuminated visual display, device, or communication designed or used for the purpose of identifying, announcing, directing, informing, or bring to the attention of others the subject thereon, that is visible from the public right-of-way, a driveway or parking lot with access to a public right-of-way, or from an adjacent property, except as specifically noted otherwise in this Article. For purposes of this Article, the term "sign" includes but is not limited to "banners," "balloons," "flags," "pennants," "streamers," "windblown devices," and "advertising devices." Furthermore, the term "sign" includes the sign structure, supports, lighting system, and any attachments, ornaments, or other features used to draw the attention of the observers.

**Signable area:** In the case of a wall sign, signable area shall be the building face on which the sign is proposed. In the case of marquees or canopies, signable area shall be the area of the marquee or canopy wall on which the sign is proposed. For window signs, signable area shall be measured and calculated on the basis of the proportion of area within each individual window frame, not the total window area of all building windows visible from a street.

**Sign face:** That part of a sign that is or can be used for advertising purposes.

**Streamers:** See "Pennants."

**Subdivision or multi-use sign:** A freestanding monument sign pertaining to a subdivision designed for residences, offices, businesses, institutions, or light industries or combination thereof.

**Swinging sign:** A sign other than an animated sign as defined by this Article, where the sign copy area is attached to a sign structure in a way that can be set in motion with pressure, and where the sign structure is attached to a building at a height above normal eye level. This term does not include any freestanding signs. A swinging sign may be considered in lieu of permitted wall signage.

**Temporary sign:** A sign of a nonpermanent nature and erected for a limited duration.

**Visible:** Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

**Wall sign:** A single-sided sign with one visible face applied to or mounted to the wall or surface of a building or structure, the display surface of which if attached to a wall or portico and does not project more than fourteen (14) inches from the outside wall of such building or structure, or if on an awning or canopy, is flush with the material of said awning or canopy (see also figure, "Types of Attached Signs").

**Windblown device:** Any device not otherwise specifically defined in this Article, that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by wind. For purposes of this Article, windblown devices are "signs."

**Window sign:** A sign installed on or within two (2) feet of an exterior window or door and intended to be visible from the exterior, of the building. Displays which show products or depict services sold on the premises and which are more than two (2) feet from an exterior window or door shall not be classified as window signs (see also figure, "Types of Attached Signs").

## **CHAPTER 17.3 GENERAL PROVISIONS**

Section 17.3.1.	Authority and Scope
Section 17.3.2.	Applicability
Section 17.3.3.	Exemptions
Section 17.3.4.	Non commercial Messages
Section 17.3.5.	Prohibited Signs
Section 17.3.6.	Maintenance
Section 17.3.7.	Abandoned Signs
Section 17.3.8.	Display of Property Addresses Required

### **Section 17.3.1 Authority and Scope**

This Article is adopted pursuant to authority vested in the Town pursuant to its city charter and home rule powers. This Article is adopted to serve substantial governmental interests of correcting and avoiding multiple problems that would occur without the regulation of signs, as described in Chapter 17.1 of this Article. The regulations contained herein are no more extensive than necessary to serve the substantial governmental interests identified in this Article. It is not the intent of this Article to regulate the content of signs, but only their composition, type, location, distance from right-of-way, height, size, illumination, and in some cases the duration they may be displayed, or other non-content based restrictions implied in this Article. It is not the intent of this Article to foreclose important and distinct mediums of expression for political, religious, or personal messages, on any sign permitted to be erected by this Article. These regulations shall not be construed as limiting the message content of any sign.

### **Section 17.3.2. Applicability**

No sign may be erected, placed, established, painted, created, or maintained except in conformance with this Article.

### Section 17.3.3. Exemptions

The following types of signs are specifically exempted from compliance with this Article.

1. Flags, other than in residential districts, as many as three per lot, when designed and displayed in a way that allows for routine, daily raising and lowering of the flags, not exceeding forty ( 40) square feet. Poles for such flags shall not exceed twenty-five (25) feet in height and shall not be more than twenty-five (25) feet from the main building entrance.
2. Street address identifiers and building identification numbers on multi-tenant buildings which are essential to the location of such buildings.
3. Signs not oriented or intended to be legible from a public right-of-way, private road or driveway, or other private property. Signs or stickers which are designed to be read only from close range (i.e., five feet), attached to a device or structure more than twenty-five (25) feet from the right-of-way of a road, not to exceed one (1) square feet each sign or sticker; provided, however, that drive-through lanes may have display boards not exceeding six (6) feet in height or thirty-six (36) square feet in area.
4. Signs erected more than two (2) feet inside a building.
5. Building markers and integral decorative or architectural features or works of art such as murals, so long as such features do not contain moving parts or lights.
6. Traffic safety and traffic directional signs, installed within the right-of-way of a public street under the authority of the Town, the State of Georgia or the Federal Government.
7. Traffic safety and traffic directional signs along private streets and driveways, and in off street parking lots which do not exceed four (4) square feet each.
8. Directory signs, as defined by this Article, which do not exceed four (4) square feet each nor six (6) feet in height.
9. Public notice signs and signs of a public interest, erected by or on the order of a public officer in the performance of his duty, such as public notices, safety signs, memorial plaques, signs of historical interest, and temporary banners pertaining to community festivals.
10. Holiday lights and decorations, provided that they are removed within 30 days following the holiday season to which they pertain.
11. Handicapped parking signs, when required per state law or Section 12.3.6. of this Land Use Management Code.

In any case where a sign of a certain size is exempted by this Section, and an applicant desires to erect a larger size sign than the area of sign exempted but said sign is not allowed in the zoning district in which it is located, said sign shall only be permitted only upon approval of a variance in accordance with the provisions of this Article.



#### **Section 17.3.4. Noncommercial Messages**

Any sign allowed by this Article may contain a lawful noncommercial message. Noncommercial messages shall be regulated by this Article only as to the size, height, location, design, or other non-content based consideration.

#### **Section 17.3.5. Prohibited Signs**

The following types of signs or advertising devices are prohibited in all zoning districts of the Town, except as otherwise specifically provided by this Article:

1. Abandoned signs.
2. Animated signs.
3. Hand-held signs.
4. Inflatable signs, except as specifically permitted under special event sign permit.
5. Portable signs remaining longer than 60 days.
6. Sidewalk signs except where erected by public officials to deal with temporary public safety issues.
7. Any sign illuminated at such an intensity or brightness which reasonably interferes with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent properties, or which reasonably creates a hazard to operators of motor vehicles.
8. Pennants, except as specifically permitted under special event sign permit.
9. Streamers and wind-blown devices.
10. Signs which imitate an official traffic sign or signal. This includes signs with colored lights and with shapes similar to those for traffic safety signs, used at any location or in any manner so as to be confused with or construed as traffic control devices or traffic safety signs.
11. Signs within the right-of-way, including those attached to traffic signs, utility poles, or guy wires, except for those signs exempted by this Article and signs erected with permission of the Governing Body for a public purpose.
12. Signs attached to, drawn, or painted upon trees, rocks, or other natural features.
13. Advertising displayed on benches, trash cans, telephone booths, and similar devices.
14. Strobe, laser, and search lights (also prohibited by Chapter 9.4 of this Land Use Management Code).
15. Any sign placed in such a manner that it obstructs the vision of pedestrians or traffic in a public right-of-way or the entrance of a private street or driveway to a public right-of-way.
16. Any sign located so as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device.
17. Any sign not specifically permitted in a zoning district as provided in this Article shall be prohibited in that district, unless specifically otherwise provided under this Article.
18. Any sign erected without the permission of the property owner.
19. Any sign with colors, shapes, lettering or other characteristic which are incompatible with the character of the area where the sign is located.

### **Section 17.3.6. Maintenance**

All signs shall be maintained by the sign owner in good condition so as to present a neat and orderly appearance. Upon discovery of a sign in need of maintenance, the Zoning Administrator shall give written notice to the owner of the sign or the owner of the property on which the sign is located if the owner of the sign itself cannot be determined. Said notice shall state the item or items requiring repair or maintenance. The owner shall have thirty (30) days in which to repair or maintain the sign before a citation is issued. If the owner has failed to make repairs or the necessary maintenance within that time, the Zoning Administrator shall cause a citation to be issued. The Zoning Administrator may cause to be removed after notice pursuant to this Section any sign which shows gross neglect, is dilapidated, or in the opinion of the Building Inspector poses an imminent threat to public safety. It shall be unlawful, after being notified pursuant to this Section and after the thirty (30) days notice has expired, for any person to display a sign in any of the following conditions:

- (a) Lettering or other elements of the sign have become detached or have fallen off the sign or become misaligned.
- (b) Painted surfaces on the sign or sign structure have begun to peel, flake over a significant portion of the sign, or have faded or oxidized to an extent that the sign no longer displays the message as originally intended.
- (c) A significant number of the bricks, stones, or other materials on the structural base of a sign have become detached or have fallen off or have become misaligned.
- (d) Other similar conditions of disrepair or lack of maintenance as determined by the Zoning Administrator.
- (e) For lighted signs, one or more illumination devices are not working and have not been replaced.

### **Section 17.3.7. Abandoned Signs**

If the principal use or activity on a property has ceased operation, any permanent ground signs including supports, and wall signs, permitted in connection with said principal use or activity shall be removed within ninety (90) days of the discontinuance of said principal use or activity. No new sign shall be permitted to be erected on the same property until the discontinued sign, including its supports, has been removed or is converted to a lawfully conforming sign.

If an accessory use or activity on a property has ceased operation, any permanent ground signs, including supports, and wall signs permitted in connection with said accessory use or activity shall be removed within forty-five (45) days of the discontinuance of said accessory use or activity. No new sign shall be permitted to be erected on the same property until the discontinued sign including supports has been removed or is converted to a lawfully conforming sign. Upon the expiration of the applicable time period provided in this Section for the removal of discontinued signs and sign supports, said signs shall be deemed unlawful abandoned signs.

If a discontinued principal use monument sign contains a sign face that is in the form of a removable panel, the panel containing advertising shall be removed and replaced with a panel without advertising until another principal use is established and a sign permit issued for a new principal use sign. If a discontinued principal use monument sign contains a sign copy area that is not removable without disassembling the monument, then the said sign copy area shall be painted over if possible, or, where it cannot be painted over, covered with durable cloth or canvas so that the sign copy and/or underlying structure which was permitted in connection with the business or activity discontinued is no longer visible, until such time as a new sign permit is applied for and granted and approved sign copy is affixed on the sign copy area of said monument.

### **Section 17.3.8. Display of Property Addresses Required**

It is of the utmost importance that public safety personnel, mail carriers, and the general public be able to conveniently locate buildings, institutions, businesses, and establishments by their property address. Therefore, to ensure this essential public purpose is served, establishments other than single-family dwellings shall display the street address of the property on either a principal use ground sign if permitted or on the building facade. Within a commercial center where multiple addresses exist, the highest and lowest street address numbers shall be identified. If no building, structure or ground sign exists on site, no address display shall be required.

Street address numbers shall be of a color that contrasts against the background. Numbers shall be a minimum of four (4) inches in height on local and state roads and eight (8) inches in height on federal highways. Numbers shall be visible from both directions of travel along the street. This provision shall not apply to limited-access or interstate highways.

## **CHAPTER 17.4 NONCONFORMING SIGNS**

Section 17.4.1.	Replacement
Section 17.4.2.	Repairs and Maintenance
Section 17.4.3.	Duration and Continuance

### **Section 17.4.1. Replacement**

A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards or dismountable material on nonconforming signs shall be permitted.

### **Section 17.4.2. Repairs and Maintenance**

No structural repairs, change in shape, or size of a nonconforming sign shall be permitted except to make the sign comply with the requirements of this Article. Minor repairs and maintenance of nonconforming signs shall be permitted.

### **Section 17.4.3. Duration and Continuance**

Signs which did not meet all requirements of this Article when enacted, or which do not meet provisions of this Article at the time of its amendment may stay in place until one of the following conditions occurs:

- (a) In the case of principal and accessory use signs, the business, entity, or activity in which the sign is permitted in connection therewith ceases at that location;
- (b) The deterioration of the sign or damage to the sign makes it a hazard;
- (c) The sign has been damaged to such extent that repairs equal to or exceeding fifty percent (50%) of the sign's current replacement value. Are required to restore the sign.
- (d) No conforming principal use or accessory use ground or wall sign shall be permitted to be erected on the same property with an existing nonconforming sign until the nonconforming sign has been removed or made to conform to the provisions of this Article.

## **CHAPTER 17.5**

### **PERMITTING OF SIGNS**

Section 17.5.1.	Building Permit Required
Section 17.5.2.	Electrical Permit Required for Illuminated Signs
Section 17.5.3.	Sign Permit Required
Section 17.5.4.	Exemptions from Sign Permit
Section 17.5.5.	Sign Permit Application
Section 17.5.6.	Sign Permit Fees
Section 17.5.7.	Process for Issuing Sign Permits
Section 17.5.8.	Sign Permit in Historic Districts
Section 17.5.9.	Variances

#### **Section 17.5.1. Building Permit Required**

It shall be unlawful for any person to post, display, substantially change, or erect a sign in the Town without first having obtained a building permit. The applicant for a building permit shall submit application materials as specified by the Building Inspector, including a sketch or print drawn to an engineering or architectural scale showing pertinent information such as wind pressure requirements and display materials in accordance with requirements of the Building Code.

#### **Section 17.5.2. Electrical Permit Required for Illuminated Signs**

For any sign involving illumination, it shall be unlawful for any person to connect a sign to electrical power without first having obtained an electrical permit. The applicant for an electrical permit shall submit application materials as specified by the Building Inspector.

#### **Section 17.5.3. Sign Permit Required**

Except as specifically excluded or exempted from the provisions of this Article, it shall be unlawful for any person to post, display, or erect a sign or advertising device without first having obtained a sign permit. For purposes of this Article, an application for a sign permit and a building permit shall be made simultaneously, and unless otherwise specified on the sign permit, approval of a building permit for a sign shall constitute issuance of any required sign permit for said sign.

#### **Section 17.5.4. Exemptions from Sign Permit**

Any sign which is specifically exempted from the requirements of this Article shall be exempt from the requirement to obtain a sign permit. In addition, window signs and all signs twelve (12) square feet or less in area shall be exempt from a sign permit. Exemption from the requirement of a sign permit shall not be construed to exempt such sign from compliance with other applicable provisions of this Article.

### **Section 17.5.5. Sign Permit Application**

Applications for sign permits shall be filed by the sign owner or his or her agent in the office of the Zoning Administrator upon forms furnished by said office. The application shall describe and set forth the following:

- (a) The type and purpose of the sign as defined in this Article.
- (b) A drawing of the sign or other information which shows the height of the sign, the area of the face of the sign, the color scheme of the sign, and the structural supports of the sign.
- (c) The street address of the property upon which the subject sign is to be located and the proposed location of the sign on the subject property, and the suite number, where applicable.
- (d) A boundary survey or tax plat of the property on which the sign will be located which shows where thereon the sign will be located and, in the case of ground signs, the distance from the property lines and the street right-of-way and street pavement.
- (e) The square foot area per sign and the aggregate square foot area if there is more than one (1) sign face. The application must also show the location and number of existing signs and their locations on the subject property.
- (f) The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located, and consent of the owner, or his agent, granting permission for the placement or maintenance of the subject sign, which may include a copy of the lease or other document from the owner of the sign which authorized the erection thereof.
- (g) Name, address, phone number and business license number of the sign contractor.
- (h) The Zoning Administrator may require additional information as a part of the application to insure compliance with this Article.

### **Section 17.5.6. Sign Permit Fees**

No sign permit shall be issued until a sign permit fee, if required, has been paid.

### **Section 17.5.7. Process for Issuing Sign Permits**

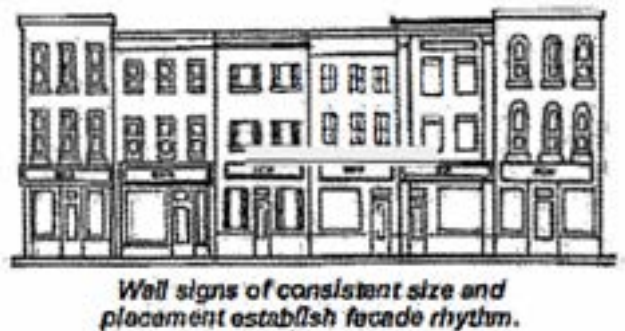
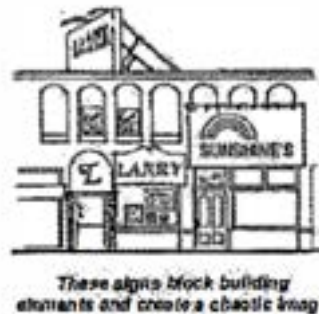
The Zoning Administrator shall be authorized to issue sign permits in accordance with the provisions of this Article. The Zoning Administrator shall process all sign permit applications as quickly as possible but in no case more than ten (10) working days after receipt of a complete sign permit application and a sign permit fee if required. For purposes of this Section only, the term "process" shall mean to make a decision on sign permit applications which can be administratively approved or denied. This section shall not pertain to sign permits in the Historic Properties Overlay District, which are subject to requirements for certificates of appropriateness.

## Section 17.5.8. Sign Permit in Historic Districts

Within the Historic Districts, no sign requiring a sign permit shall be erected, and no sign permit shall be issued for a sign that requires a sign permit, until or unless the application for sign permit has been approved by the Historic Preservation Commission after application for a certificate of appropriateness in accordance with Chapter 21.5 of this Land Use Management Code. In acting on applications for sign permits, the Commission shall consider the criteria established for the issuance of certificates of appropriateness, and any adopted design guidelines for signs in the Historic Districts.

The Historic Preservation Commission shall consider the following, which shall not be limiting, in issuing certificates of appropriateness for signs and may use these criteria in determining whether to approve, deny, or modify said signs:

- (a) The sign makes a positive contribution to the general appearance of the street and area in which it is located.
- (b) The scale, size, and shape of the sign are proportional to the building on which they are placed or to which it pertains and the area in which it is located. To this end, the Historic Preservation Commission may find that a sign is out of character with the area or not proportional to the building, activity or use and may work with the sign permit applicant to reduce the scale, size or shape or placement of the sign or signs. However, the commission shall not have authority to limit the area of a sign to less than the maximum permitted by this Article, without agreement by the sign permit applicant.
- (c) The sign does not obscure architectural features of the building, and the design of the sign is integrated with the design of the building.
- (d) The sign is designed for and directed toward pedestrians rather than to vehicular traffic so that it can be easily and comfortably read standing adjacent to the business, activity, or use.
- (e) If the sign proposed is a wall sign, it establishes an appropriate rhythm to the facade.
- (f) The proposed sign is composed of materials that are compatible with the materials of the face of the building facade where it is placed or to which it pertains.
- (g) Design, lettering, and composition of the signs are compatible with the building.



### **Section 17.5.9. Variances**

The Governing Body shall have authority to grant variances to this Article, subject to compliance with applicable provisions of Chapter 22.1 of this Land Use Management Code; provided, however, that when the sign is proposed to be located within the Historic Districts, the Governing Body shall provide an opportunity for the Historic Preservation Commission to comment on the proposed variance to this Article, prior to acting upon said application.

The Governing Body shall have the authority to grant concurrent variances to this Article, upon application, subject to compliance with applicable provisions of Chapter 21.2 of this Land Use Management Code relative to concurrent variances; provided, however, that when the sign is proposed to be located within the Historic Districts, the Governing Body shall provide an opportunity for the Historic Preservation Commission to comment on the proposed variance to this Article, prior to acting upon said application.



## **CHAPTER 17.6**

### **SIGNS PERMITTED BY ZONING DISTRICT AND DIMENSIONAL REQUIREMENTS**

Section 17.6.1.	Height of Ground Signs
Section 17.6.2.	Increase in Height of Ground Signs
Section 17.6.3.	Height of Wall Signs
Section 17.6.4.	Sign Setback
Section 17.6.5.	Types of Signs Permitted
Section 17.6.6.	Number of Signs Limited
Section 17.6.7.	Maximum Area of Sign
Section 17.6.8.	Illumination
Section 17.6.10.	Sign Structures

#### **Section 17.6.1. Height of Ground Signs**

The maximum height of any ground sign regulated by this Article shall be ten (10) feet in all commercial and industrial zoning districts (Article 8 of this Land Use Management Code) except O-1, TC, and CBD which shall be a maximum height of eight (8) feet, and four (4) feet maximum height in agricultural and residential zoning districts (Articles 6 and 7 of this Land Use Management Code). This provision shall not apply to subdivision identification monuments, which shall not exceed eight (8) feet in height.

#### **Section 17.6.2. Increase in Height of Ground Signs**

The maximum height established for the zoning district in which the sign is located shall apply to any sign, except that for properties situated below road grade, if the maximum height permitted would prevent adequate visibility, ground sign height may increase by up to 10 feet above the grade of the road to which said sign is directed. This Section shall not be applicable in TC and CBD zoning districts.

#### **Section 17.6.3. Height of Wall Signs**

No wall sign shall exceed the height of the building or structure on which it is placed.

#### **Section 17.6.4. Sign Setback**

There is no established minimum required setback for signs, except that temporary signs shall be erected no closer than fifteen (15) feet from a city, county, state, or federal road right-of-way.

#### **Section 17.6.5. Types of Signs Permitted**

In addition to the general provisions regulating signs established in this Article, sign permits shall be based on the zoning district, the types of signs permitted, as provided for by land use according to Tables 17.1, 17.2, and 17.3 in this Chapter.

### **Section 17.6.6. Number of Signs Limited**

Unless specifically provided otherwise in Tables 17.1, 17.2, and 17.3, a property shall be limited to only one (1) sign of the type permitted. No sign shall be erected to exceed the maximum number of signs as specified in Tables 17.1, 17.2, and 17.3 of this Chapter.

With regard to wall sign allowances, if a building, structure, or freestanding canopy faces more than one road frontage, each wall facing a road frontage shall be permitted to have the sign area specified for such building, structure, or freestanding canopy in this Chapter.

### **Section 17.6.7. Maximum Area of Sign**

The maximum area of signs permitted shall be as provided in Tables 17.1, 17.2, and 17.3. No sign shall be erected to exceed the maximum area of a sign as specified in Tables 17.1, 17.2, and 17.3. When this Chapter permits one sign for each road frontage, the sign area allotted to one road frontage shall not be transferred to another road frontage.

### **Section 17.6.8. Illumination**

- (a) Signs in residential zoning districts shall not be internally illuminated.
- (b) Except in C-2 zoning districts, the following shall apply: awnings may be illuminated only with direct lighting mounted on the surface of the ground, and not with any form of backlighting or internal illumination.
- (c) Externally illuminated signs shall be lighted by a white, steady stationary light of reasonable intensity shielded and directed solely at the sign, so as not to cause glare or spill light into the road right-of-way or up into the sky.
- (d) All illuminated signs shall conform to all applicable electrical codes.

### **Section 17.6.9. Special Event Signage**

Temporary signs and advertising devices may be permitted in commercial and industrial zoning districts subject to the issuance of a special event sign permit by the Zoning Administrator. Such temporary signs and advertising devices shall conform to the following:

- (a) Only one special event sign permit shall be issued on the same property in any calendar year.
- (b) No special event sign permit shall be valid for more than twenty-one (21) days.
- (c) One banner shall be permitted per lot, which shall not exceed thirty-two (32) square feet in or fifteen (15) feet in height. Such banner may be temporarily placed or attached to a building wall, window, or ground sign, or it may be freestanding between two poles or stakes.
- (d) One gas or air-filled advertising device may be permitted per lot, not to exceed a height of fifteen (15) feet.
- (e) Pennants, streamers, and other wind-blown devices shall not be permitted as part of a special event sign permit.

**TABLE 17.1**  
**SIGN AREA PERMITTED IN AGRICULTURAL ZONING DISTRICTS**

X = Not Permitted. Numbers provided are maximum square feet per sign

<b>Type of Sign/Use (Number if More than One Permitted)</b>	<b>AG</b>	<b>AG-R</b>
Principal use ground sign, lot containing a non-residential principal permitted use (1 per road frontage)	16	16
Accessory ground sign, dwelling (1 per road frontage)	4	4
Accessory ground sign, lot containing a non-residential or permitted principal use only (2 per lot permitted)	4	4
Wall sign, dwelling	X	X
Wall sign, on building containing a non-residential permitted principal use	4	4
Temporary ground sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction (1 per road frontage)	4	4
Temporary wall or window sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction	2	2
Subdivision ground sign (2 per entrance to subdivision)	X	16
Window Sign	X	X

**TABLE 17.2**  
**SIGN AREA PERMITTED IN RESIDENTIAL ZONING DISTRICTS**

X = Not Permitted. Numbers provided are maximum square feet per sign

<b>Type of Sign/Use (Number if More than One Permitted)</b>	<b>RR-Districts</b>	<b>R-Districts</b>	<b>MFR</b>	<b>PUD</b>
Principal use ground sign, lot containing a non-residential principal permitted use (1 per road frontage)	12	12	32	32
Accessory ground sign, dwelling (1 per road frontage)	4	4	4	4
Accessory ground sign, lot containing a non-residential or permitted principal use only (2 per lot permitted)	4	4	4	4
Wall sign, dwelling	X	X	2	2
Wall sign, on building containing a non-residential permitted principal use	4	4	4	4
Temporary ground sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction /1 per road frontage)	4	4	4	4
Temporary wall or window sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction	2	2	4	4
Subdivision ground sign (2 per entrance to subdivision)	X	X	32	32
Window sign, building containing a non-residential or permitted principal use only	X	X	50% of window area	50% of window area

**TABLE 17.3**  
**SIGN AREA PERMITTED IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

X = Not Permitted. Numbers provided are maximum square feet per sign

<b>Type of Sign/Use (Number if More than One Permitted)</b>	<b>O-I, CBD and TC</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Principal use ground sign, lot containing a single non-residential principal permitted use, when fronting on a local road (1 per road frontage)	24	32	48	64
Principal use ground sign, lot containing a single non-residential principal permitted use, when fronting on a 2 or 3-lane state highway (1 per road frontage)	24	32	64	72
Principal use ground sign, lot containing a single non-residential principal permitted use, when fronting on a 4-lane state highway or interstate highway (1 per road frontage)	24	48	96	96
Accessory ground sign, dwelling (1 per road frontage)	4	4	4	4
Accessory ground sign, lot containing a single non- residential or permitted principal use only, when located on a local road (2 per road frontage)	4	8	16	16
Accessory ground sign, lot containing a single non- residential or permitted principal use only, when located on a 2 or 3-lane state highway (2 per road frontage)	8	12	24	24
Accessory ground sign, lot containing a single non- residential or permitted principal use only, when located on a 4-lane state highway or interstate highway (2 per road frontage)	16	24	32	40
Temporary ground sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction when fronting on a local road (1 per road frontage)	8	12	16	16
Temporary ground sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction when fronting on a 2 or 3-lane state highway (1 per road frontage)	12	16	24	24

<b>Type of Sign/Use (Number if More than One Permitted)</b>	<b>O-I, CBD and TC</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
Temporary ground sign during the time when a space, unit, building, or land is for sale, rent, or lease, or under construction when fronting on a 4-lane state highway or interstate highway (1 per road frontage)	16	24	36	36
Multi-tenant ground sign, lot containing multiple non- residential or permitted principal uses only, when fronting on local road (1 per frontage)	36	48	64	64
Multi-tenant ground sign, lot containing multiple non- residential or permitted principal uses only, when fronting on a 2 or 3-lane state highway (1 per frontage)	48	64	72	72
Wall sign, dwelling	2	2	2	2
Wall sign, on building containing a single non- residential permitted principal use	20% of signable area	25% of signable area	40% of signable areas	10% of signable area
Window sign, building containing a single non-residential or permitted principal use only	20% of signable area	20% of signable area	25% of signable area	10% of signable area
Wall sign on freestanding canopy (1 per canopy wall)	10% of signable area	15% of signable area	20% of signable area	15% of signable area
Wall sign, on building containing a multiple tenant (non-residential permitted principal use only)	40% of signable area if leased building frontage	50% of signable area if leased building frontage	60% of signable area if leased building frontage	20% of signable area if leased building frontage

## **ARTICLE 18**

### **MAYSVILLE PLANNING COMMISSION**

CHAPTER 18.1	ESTABLISHMENT, COMPOSITION, AND PURPOSE
CHAPTER 18.2	PURPOSES, POWERS, AND DUTIES

#### **CHAPTER 18.1**

##### **ESTABLISHMENT AND COMPOSITION**

Section 18.1.1.	Composition, Appointment, and Quorum
Section 18.1.2.	Officers
Section 18.1.3.	Duties of Officers
Section 18.1.4.	Absences and Declaration of Vacancy
Section 18.1.5.	Conflicts of Interest
Section 18.1.6.	Meetings and Records

##### **Section 18.1.1. Composition, Appointment, and Quorum**

Membership of the Planning Commission shall be established as follows. There shall be a total of six (6) members. All appointments to the Planning Commission shall be made by the Governing Body of the Town. Members to fill expired or unexpired terms shall be for three years. A quorum shall be required to be present for the Planning Commission to function and decide matters that come before it. A quorum shall consist of a majority of the members of the Commission.

##### **Section 18.1.2. Officers**

The officers of the Planning Commission shall consist of a Chairman and Vice Chairman and that are elected by commission members will have no set term of office. In the event of the resignation or removal of the Chairperson or Vice-Chairperson, the members shall elect an individual from the Commission to fill the empty seat.

##### **Section 18.1.3. Duties of Officers**

The Chairperson shall preside at meetings of the Planning Commission, decide all points of order and procedure, represent the Planning Commission at official functions, appoint committees to investigate and report on matters which may come before the Commission, and be responsible for carrying out policy decisions. In the absence of the Chairperson, those duties shall be vested in the Vice-Chairperson. The Secretary, or his/her designated agent, shall maintain the records of the Planning Commission.

##### **Section 18.1.4. Absences and Declaration of Vacancy**

Any member of the Planning Commission that fails to attend three (3) consecutive regular meetings of the Commission or misses at least six (6) meetings in any twelve (12) month period is subject to dismissal without any other valid reason. When such absences are found, the Secretary shall provide written notice to the governing body recommending that a vacancy be declared and requesting that the vacated position be filled.

### **Section 18.1.5. Conflicts of Interest**

Should any member of the Planning Commission have a financial interest in any issue that comes before the Commission, said member shall disqualify himself from participating or considering the issue and shall not sit with the Commission during deliberations. A member may raise the question of perceived conflict or actual financial conflict of interest of any other member regarding a specific issue that is before the Commission. If perceived or actual conflict is alleged, a majority vote of those without such alleged conflict shall determine if such perceived or actual financial conflict exists and whether the member with an alleged conflict should be allowed to participate. If the majority vote is a determination that the member has an actual financial conflict of interest, said member with the financial conflict of interest shall disqualify himself from participating or considering the issue and shall not sit with the Commission during deliberations. If it is determined by majority vote of members present that a perceived conflict of interest exists, but the conflict is one that does not rise to the level of financial interest, the individual member with perceived conflict shall have discretion as to whether he or she will vote on the matter in question, though the other members may make a recommendation to said member.

### **Section 18.1.6. Meetings and Records**

All meetings of the Planning Commission shall be open to the public and all records of the Planning Commission shall be public record. The Planning Commission may adopt bylaws which establish regular meeting dates, procedures for calling special meetings, and other meeting matters. Unless otherwise specified by the Planning Commission, regular meetings of the Planning Commission shall be held on the fourth Monday of each month at 7 p.m. The Planning Commission shall hold regular meetings unless it is notified by the Secretary that there is no business to conduct, in which case the Chairperson may cancel the regular meeting. No meeting shall be held unless forty-eight (48) hours notice thereof has been provided to each member. If special meetings are called by the Chairperson, the purpose(s) of the special meeting shall be stated and no other business may be conducted at such special meeting.



## **CHAPTER 18.2**

### **PURPOSES, POWERS AND DUTIES**

Section 18.2.1.	Purpose of the Planning Commission
Section 18.2.2.	Powers and Duties
Section 18.2.3.	Training

#### **Section 18.2.1. Purpose of Planning Commission**

The general purpose of the Maysville Planning Commission shall be to develop, promote, and assist in establishing coordinated and comprehensive planning in the Town, and to serve in an advisory capacity to the City Council of the Town in the implementation of adopted plans and ordinances.

#### **Section 18.2.2. Powers and Duties**

The Planning Commission shall have all those duties necessary and reasonably implied as being necessary to carry out its duties as specified in this Land Use Management Code. Said powers and duties shall specifically include, without limitation, the following:

- (a) To adopt and amend bylaws, without the need to amend this Article.
- (b) Cooperate with the Federal, State, or local, public or semi-public agencies or private individuals or corporations, and carry out cooperative undertakings with said agencies, individuals, or corporations.
- (c) Prepare or cause to be prepared a comprehensive plan or parts thereof, for the development of the local jurisdictions or parts thereof, which shall be subject to the approval of each governing body with jurisdiction in accordance with the Georgia Planning Act of 1989.
- (d) Prepare or cause to be prepared, and recommend for adoption by the Governing Body zoning ordinances, regulations for the subdivision of land, and any other land use regulations appropriate to manage development in the Town.
- (e) To administer zoning and other land use regulations in whatever role is delegated to it by the Governing Body or as provided In this Land Use Management Code. The Planning Commission shall have authority and responsibility to review applications for zoning map amendments or applications for conditional use approval and other related applications and provide a recommendation to the Governing Body.
- (f) To review and approve subdivision plats; provided, however, that If the Planning Commission is given authority to grant approval of final plats, said approval shall not constitute acceptance of public improvements which Is a power reserved by the local governing body with jurisdiction over the subdivision plat.

- (g) To prepare and recommend for adoption to the Governing Body a plat or plats, or a corridor map or maps, showing the location of the boundary lines of existing, proposed, extended, widened or narrowed streets and linear open spaces and recreational areas, together With regulations to control the erection of buildings or other structures within such lines, within the jurisdiction or a specified portion thereof.
- (h) To make, publish, and distribute maps, plans and reports and recommendations relating to the planning and development of the Town to public officials and agencies, citizens.
- (i) To recommend to the Governing Body or its executive, programs for capital improvements and the financing thereof.
- (j) To delegate certain of its functions to a hearing examiner, as specified and established in Article 20 of this Land Use Management Code.
- (k) To exercise, in general, such other powers as may be necessary to enable it to perform its functions and promote the planning of the Town.

### **Section 18.2.3. Training**

The Governing Body of the Town finds that it is in the best interests of their citizens to strongly encourage newly appointed members of the Maysville Planning Commission during the course of their term of appointment to attend one or more courses of training and education on matters pertaining to the operations, activities, duties, and subject matters of Planning Commissions.

It shall be the responsibility of the Zoning Administrator to periodically notify members of the Planning Commission of appropriate education and training opportunities encouraged in this Section. The following organizations and institutions, among others, are determined to be appropriate:

- (1) Training programs and seminars by the University of Georgia's Carl Vinson Institute of Government, the Georgia Institute of Technology graduate city and regional planning program, Georgia State University, or any other institution of higher learning in the state.
- (2) Training programs by the Northeast Georgia Regional Development Center.
- (3) Conferences of the Georgia Association of Zoning Administrators.
- (4) Conferences of the Georgia Chapter of the American Planning Association or the American Planning Association.
- (5) Training programs organized by the Zoning Administrator specifically for Planning Commission members.

## **ARTICLE 19**

### **HISTORIC PRESERVATION COMMISSION**

CHAPTER 19.1	CREATION AND COMPOSITION
CHAPTER 19.2	DEFINITIONS
CHAPTER 19.3	POWERS AND DUTIES
CHAPTER 19.4	DESIGNATION OF HISTORIC DISTRICTS AND LANDMARKS

### **CHAPTER 19.1**

#### **CREATION AND COMPOSITION**

Section 19.1.1.	Authority
Section 19.1.2.	Creation and Continuance
Section 19.1.3.	Appointment and Terms
Section 19.1.4.	Qualifications of Members
Section 19.1.5.	Compensation

#### **Section 19.1.1. Authority**

This Article is adopted pursuant to the authority granted in O.C.G.A. Section 44-10-26 (The Georgia Historic Preservation Act - Acts 1980, pages 1723-1729).

#### **Section 19.1.2. Creation and Continuance**

A Historic Preservation Commission may be established by ordinance of the City Council of the City of Maysville. If the Commission is not established, the Governing Body or its designated official will perform duties of Commission stated in Chapter 21.5.

#### **Section 19.1.3. Appointment and Terms**

Commission members shall be appointed by the Governing Body of the Town. The Historic Preservation Commission shall consist of five (5) members. Appointments shall be for two (2) years.

#### **Section 19.1.4. Qualifications of Members**

All members shall be persons who have demonstrated special interest, experience or education in history, architecture or the preservation of historic resources. To the extent available in the Town, at least three (3) members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or related professions.

#### **Section 19.1.5. Compensation**

Members of the Historic Preservation Commission shall not receive a salary, although they may be reimbursed for expenses.

## CHAPTER 19.2

### DEFINITIONS

**Certificate of appropriateness:** A document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

**Exterior architectural features:** The architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

**Exterior environmental features:** All those aspects of the landscape or the development of the site which affect the historical character of the property.

**Historic district:** A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the Town Council.

**Historic property:** An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Town Council.

**Material change in appearance:** A change that will affect either the exterior architectural or environmental features of an historic property or any structure, site or work of art within an historic district, and may include any one or more of the following: A reconstruction or alteration of the size, shape, or facade of an historic property, including any of its architectural elements or details; demolition of an historic structure; commencement of excavation for construction purposes; a change in the location of advertising visible from the public right-of-way; the erection, alteration, restoration, or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

## **CHAPTER 19.3 POWERS AND DUTIES**

Section 19.3.1.	Duties and Responsibilities
Section 19.3.2.	Rules of Procedure and Transaction of Business
Section 19.3.3.	Authority to Receive Funding from Various Sources.
Section 19.3.4.	Records of Commission Meetings
Section 19.3.5.	Administration of the Commission's Duties
Section 19.3.6.	Training

### **Section 19.3.1. Duties and Responsibilities**

The Historic Preservation Commission shall be authorized to:

- (a) Prepare an inventory of all property in the Town having the potential for designation as historic property;
- (b) Recommend to the City Council specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts;
- (c) Review applications for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Land Use Management Code;
- (d) Recommend to the City Council the designation of any place, district, site, building, structure, or work of art as an historic property or as an historic district, or recommend that any such place, district, site, building, structure, or work of art be revoked or removed from its status as a historic property or historic district;
- (e) Restore or preserve any historic properties acquired by the Town;
- (f) Promote the acquisition by the Town of facade easements and conservation easements in accordance with the provisions of the "Facade and Conservation Easements Act of 1976" (Georgia Laws 1976, p. 1181);
- (g) Conduct an educational program on historic properties located within its historic preservation jurisdiction;
- (h) Make such investigations and studies of matters relating to historic preservation as the City Council or the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
- (i) Seek out state and federal funds for historic preservation, and make recommendations to the Town concerning the most appropriate uses of any funds acquired;
- (j) Submit to the Historic Preservation Section of the Department of Natural Resources a list of historic properties or historic districts designated;
- (k) Perform historic preservation activities as the official agency of the Town historic preservation program;
- (l) Employ persons, if necessary, to carry out the responsibilities of the Commission;

- (m) Receive donations, grants, funds, or gilts of historic property, and to acquire and sell historic properties. The Commission shall not obligate the Town without prior consent;
- (n) Review, make comments, and recommend to the State Historic Preservation Office the nomination of properties within its jurisdiction to the National Register of Historic Places.
- (o) Prepare and recommend design guidelines for development within the various historic districts of the Town, which if adopted by the Town Council shall be used by the Historic Preservation Commission in considering and acting upon certificates of appropriateness.
- (p) Provide education, outreach, and coordination with the Town's Better Hometown Program, if applicable.

#### **Section 19.3.2. Rules of Procedure and Transaction of Business**

The Historic Preservation Commission shall adopt rules for the transaction of its business and consideration of applications. It shall provide for the time and place of regular meetings and for the calling of special meetings. The Historic Preservation Commission shall have the flexibility to adopt rules of procedure without amendment to this Article. A quorum shall consist of a majority of the members. The latest edition of "Robert's Rules of Order" shall determine the order of business at all meetings.

#### **Section 19.3.3. Authority to Receive Funding from Various Sources**

The Commission shall have the authority to accept donations.

#### **Section 19.3.4. Records of Commission Meetings**

Public records shall be kept of the Historic Preservation Commission's resolutions, proceedings, and actions.

#### **Section 19.3.5. Administration of the Commission's Duties**

Historic Preservation Commission shall be considered a part of the planning functions of the Town and shall be administered by the Zoning Administrator.

### **Section 19.3.6. Training**

The Mayor and Town Council find that it is in the best interests of the citizens to strongly encourage newly appointed members of the Historic Preservation Commission during the course of their term of appointment to attend one or more courses of training and education on matters pertaining to the operations, activities, duties, and subject matters of Historic Preservation Commissions.

It shall be the responsibility of the Zoning Administrator to periodically notify members of the Commission of appropriate education and training opportunities encouraged in this Section. The following organizations and institutions, among others are determined to be appropriate:

- (1) Training programs and seminars by the University of Georgia, the Georgia Institute of Technology graduate city and regional planning program, Georgia State University, or any other institution of higher learning in the state.
- (2) Training programs by the Northeast Georgia Regional Development Center.
- (3). Conferences of the Georgia Trust for Historic Preservation.
- (4) Conferences of the Georgia Chapter of the American Planning Association or the American Planning Association.
- (5) Training programs organized by the Zoning Administrator specifically for Historic Preservation Commission members.

## **CHAPTER 19.4**

### **DESIGNATION OF HISTORIC DISTRICTS AND LANDMARKS**

Section 19.4.1.	Preliminary Research by the Commission
Section 19.4.2.	Criteria for Designation of Historic Districts
Section 19.4.3.	Boundaries of Historic Districts
Section 19.4.4.	Classification of Properties within Historic Districts
Section 19.4.5.	Designation of Landmarks
Section 19.4.6.	Application for Designation of Historic District or Landmark
Section 19.4.7.	Required Public Hearings and Notice
Section 19.4.8.	Ordinance Requirements
Section 19.4.9.	Notification of Adoption of Ordinance for Designation
Section 19.4.10.	Moratorium While Ordinance for Designation is Pending

#### **Section 19.4.1. Preliminary Research by the Commission**

The Commission shall have the authority to compile and collect information and conduct surveys of historic resources within the Town. The Commission shall present to the Town Council nominations for historic districts and local landmarks. The Commission shall prepare formal reports when nominating historic districts or local landmarks. These reports shall be used to educate the community and to provide a permanent record of the designation. The report may follow guidelines for nominating structures to the National Register of Historic Places (National Preservation Act of 1966). The report shall consist of two (2) parts: a physical description and a description of historic significance. This report will be submitted to the Historic Preservation Section of the Georgia Department of Natural Resources.

#### **Section 19.4.2. Criteria for Selection of Historic Districts**

An Historic District is a geographically definable area, which contains structures, sites, works of art, or a combination thereof, which: a) have special character or special historic/aesthetic value or interest; b) represent one or more periods or styles of architecture typical of one or more eras in the history of the municipality, county, state, or region; c) cause such area, by reason of such factors, to constitute a visibly perceptible section of the Town.

#### **Section 19.4.3. Boundaries of Historic Districts**

Boundaries of historic districts when proposed shall be specified on tax maps and the boundaries of historic districts shall be included in the local ordinance designating historic districts. Boundaries specified in legal notices shall coincide with the boundaries finally designated. Districts shall be shown on the Official Zoning Map or as provided in Chapter 3.3 of this Land Use Management Code.



#### **Section 19.4.4. Classification of Properties within Historic Districts**

Individual properties within historic districts shall be classified as "Contributing" or "Noncontributing."

A contributing building, site, structure, or object adds to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because

- (a) it was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding important information about the period, or
- (b) it independently meets the National Register criteria.

A noncontributing building, site, structure, or object does not add to the historic architectural qualities, historic associations, or archaeological values for which a property is significant because

- (a) it was not present during the period of significance,
- (b) due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or
- (c) it does not independently meet the National Register criteria.

#### **Section 19.4.5. Designation of Landmarks**

An historic landmark is a structure, site, work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the town, State of Georgia, or local region, for one or more of the following reasons:

- (a) it is an outstanding example of a structure representative of its era;
- (b) it is one of the few remaining examples of past architectural style;
- (c) it is a place or structure associated with an event or person of historic or cultural significance to the Town, State of Georgia, or the region.

Boundaries of designated landmarks shall be clearly defined for individual properties on tax maps and located on the Official Zoning Map or as provided in Chapter 3.3 of this Land Use Management Code.

#### **Section 19.4.6. Application for Designation of Historic District or Landmark**

An historical society, neighborhood association, or group of property owners may apply for designation of historic districts. An historical society or property owner may apply for designation of landmark structures.

#### **Section 19.4.7. Required Public Hearings and Notice**

The City Council shall hold a public hearing on the proposed ordinance for designation. Notice of the hearing shall be published in at least three (3) consecutive issues in the legal organ of the Town, and written notice of the hearings shall be mailed by the Commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than (10) nor more than twenty (20) days prior to the date set for the public hearing. A letter sent via the United States mail to the last known owner of the property shall constitute legal notification under this Chapter.

#### **Section 19.4.8. Ordinance Requirements**

Any ordinance designating any property or district as Historic shall describe each property to be designated, set forth the name(s) of the owner(s) of the designated property or properties, and require that a Certificate of Appropriateness be obtained from the Historic Preservation Commission prior to any material change in appearance of the designated property. Any ordinance designating any property or district as Historic shall require that the designated property or district be shown on the Official Zoning Map or as provided in Chapter 3.3 of this Land Use Management Code and kept as a public record to provide notice of such designation.

Prior to designating any property or district as Historic, the Commission must submit a report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building/structure, or work of art, to the Historic Preservation Section of the Department of Natural Resources and it will be allowed thirty (30) days to prepare written comments. A decision by the Town Council to accept or deny the ordinance for designation shall be made within fifteen (15) days following the public hearing, and shall be in the form of an ordinance of the Town.

#### **Section 19.4.9. Notification of Adoption of Ordinance for Designation**

Within thirty (30) days following the adoption of the ordinance for designation, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site, or work of art located within a designated historic district shall be given written notification of such designation by the Town Council which notice shall apprise said owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. All necessary agencies within the Town shall also be notified of the ordinance for designation, including the local historical organization.

#### **Section 19.4.10. Moratorium While Ordinance for Designation is Pending**

Once an ordinance for designation has been publicly advertised, the Zoning Administrator shall not approve development and the Building Official shall not issue a building permit within the boundaries of property proposed to be designated historic that would, upon adoption of the ordinance for designation so advertised, require a certificate of appropriateness as required in Chapter 21.5 of this Land Use Management Code, until the Town Council has acted upon the ordinance for designation.

If the ordinance for designation is denied, the Zoning Administrator shall issue the development permit and the Building Inspector shall issue the building permit, subject to compliance with all applicable regulations of this Land Use Management Code and applicable building codes.

If the ordinance for designation is approved, no development permit or building permit shall be issued and it shall be unlawful to commence any activity or make any improvement that requires a certificate of appropriateness until or unless an application for certification of appropriateness is filed with and approved by the Historic Preservation Commission in accordance with Chapter 21.5 of this Land Use Management Code.

## **ARTICLE 20 HEARING EXAMINER**

CHAPTER 20.1	PURPOSE AND AUTHORITY
CHAPTER 20.2	HEARING EXAMINER

### **CHAPTER 20.1 PURPOSE AND AUTHORITY**

Section 20.1.1.	Purpose
Section 20.1.2.	Authority to Establish

#### **Section 20.1.1. Purpose**

Additional growth and development in the Town may eventually lead to an increasing number of development applications under the jurisdictional review of the Planning Commission, which include but are not limited to rezoning requests, conditional use applications, variances, appeals, approval of subdivision plats, and other reviews and decisions on applications as provided in this Land Use Management Code. Such applications may eventually overtax the capacity of the Planning Commission to act upon multiple actions under its authority.

The purpose of this article is to authorize the Planning Commission to establish and appoint a professional hearing examiner position and delegate certain specific responsibilities within the decision-making authority of the Planning Commission to such an appointed Zoning Administrator or Building Inspector. This article establishes the parameters under which such an appointment is acceptable to the Governing Body.

Of the many applications for which the Planning Commission has review and recommendation and/or approval/disapproval jurisdiction, the appeal of an administrative decision and the variance application are two which require the most time-consuming and careful consideration. Appeals of administrative decisions and stand-alone (versus concurrent) variance applications require the hearing body to examine facts and apply the law in a quasi-judicial manner, a procedure that is significantly different from the recommendations made by the Planning Commission on applications that are ultimately legislative matters (i.e., rezoning requests). Such appeal and variance applications can benefit from consistent principles of review and quasi-judicial decision-making which may be better afforded by a professional Hearing Examiner. In addition, the Planning Commission may find a need or have the desire to obtain recommendations from the Hearing Examiner in matters within its jurisdiction.

#### **Section 20.1.2. Authority to Establish**

The Planning Commission shall have the authority to appoint by resolution a Zoning Administrator or Building Inspector. The Planning Commission shall have the authority to establish application fees for applications which are reviewed by the Hearing Examiner to recover the cost of the Hearing Examiner.

## **CHAPTER 20.2 HEARING EXAMINER**

Section 20.2.1.	Appointment
Section 20.2.2.	Term of Appointment
Section 20.2.3.	Compensation
Section 20.2.4.	Meetings
Section 20.2.5.	Qualifications; Application for Appointment
Section 20.2.6.	Removal
Section 20.2.7.	Delegation of Authority
Section 20.2.8.	Appeal of Hearing Examiner's Decision

### **Section 20.2.1. Appointment**

If it elects to appoint a Hearing Examiner, the Planning Commission shall appoint the hearing examiner by resolution which shall require approval by a majority of the Planning Commission membership.

### **Section 20.2.2. Term of Appointment**

Any Hearing Examiner appointed pursuant to this Article shall be for a fixed term as specified in the appointment resolution, which may be renewed at the discretion of the Planning Commission.

### **Section 20.2.3. Compensation**

The resolution appointing the Hearing Examiner shall fix the compensation of the Hearing Examiner which may be on a per application, per meeting, or hourly basis. In connection with such appointment, the Planning Commission shall not be authorized to obligate funds of the Town unless specifically appropriated for said purpose. If appointed, the compensation of the Hearing Examiner shall be derived exclusively from application fees for the type or types of applications delegated by the Planning Commission and heard, recommended, or decided by the Hearing Examiner, unless other funds are specifically appropriated by the Governing Body. To this end, the Planning Commission is authorized to establish the application fees for applications subject to review by the Hearing Examiner and shall set such application fees to recover the costs of the Hearing Examiner.

### **Section 20.2.4. Meetings**

The Hearing Examiner shall meet at least once each month at the call of the Planning Commission or Zoning Administrator and at such other times as the Planning Commission may determine; provided, however, that this provision shall not be construed as requiring the Hearing Examiner to meet when he or she has no regular business to transact.

### **Section 20.2.5. Qualifications; Application for Appointment**

There shall be no specific qualifications for the Hearing Examiner. Prior to making an appointment, the Planning Commission shall broadly solicit and consider applications for the appointment and shall consider professional credentials that will qualify a person to serve as Hearing Examiner.

### **Section 20.2.6. Removal**

An appointment of the Hearing Examiner may be discontinued by resolution approved by a majority of the members of the Planning Commission, in which case the Planning Commission shall resume any duties assigned to the Hearing Examiner. A Hearing Examiner may be removed by the Planning Commission, with or without cause, subject to contractual provisions that may specifically apply to the appointment and removal of a Hearing Examiner as negotiated by the Planning Commission in its agreement with said Hearing Examiner.

### **Section 20.2.7. Delegation of Authority**

If established and assigned responsibility for reviewing and/or deciding upon a specific type of application, the Hearing Examiner shall be the sole body to hear the type of application assigned to it. If the review of a particular type of application is delegated to the Hearing Examiner, then all such applications of that type (e.g., appeals of administrative decisions or stand-alone variance requests, or both) shall be the jurisdiction of the Hearing Examiner.

When the Hearing Examiner is authorized by resolution of the Planning Commission to act upon a certain type of application, subject to the appeal provision of this Chapter, the Hearing Examiner shall make written findings of fact on the application with seven (7) calendar days of the close of the hearing or meeting on the matter. In connection with such application, the Hearing Examiner may impose conditions with respect to the location, construction, maintenance, or operation of any use or building associated with the application, as may be deemed necessary by the Hearing Examiner for the protection of adjacent properties and the public interest.

### **Section 20.2.B. Appeal of Hearing Examiner's Decision**

If authorized by resolution of the Planning Commission to make final determinations on certain applications, a decision of a Hearing Examiner shall be final; subject, however, to appeal to the Governing Body in the same manner prescribed for the application considered by the Hearing Examiner. To this end, upon application and after payment by the applicant of any fees specified the Governing Body, may overturn, modify, or affirm and accept the decision of the Hearing Examiner in the subject case. Such appeal of the Hearing Examiner's decision by a Governing Body shall be based on the facts presented and the record produced by the Hearing Examiner. If a Hearing Examiner is authorized only to determine facts and make a recommendation, this Section shall not apply.

## **ARTICLE 21**

### **ZONING AMENDMENTS, APPLICATIONS, AND PROCEDURES**

CHAPTER 21.1	TEXT AMENDMENTS
CHAPTER 21.2	REZONING, CONDITIONAL USE, AND CONCURRENT VARIANCE APPLICATIONS
CHAPTER 21.3	PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS
CHAPTER 21.4	DEVELOPMENT OF REGIONAL IMPACT
CHAPTER 21.5	CERTIFICATE OF APPROPRIATENESS

#### **CHAPTER 21.1**

##### **TEXT AMENDMENTS**

Section 21.1.1.	Intent
Section 21.1.2.	Authority to Amend
Section 21.1.3.	Authority to Initiate Text Amendments
Section 21.1.4.	Application
Section 21.1.5.	Distribution of Application
Section 21.1.6.	Notice of Public Hearing
Section 21.1.7.	Planning Commission Public Hearing and Recommendation
Section 21.1.8.	Action by Governing Bodies
Section 21.1.9.	Withdrawal of Application
Section 21.1.10.	Special Notice Requirements
Section 21.1.11.	Appeal of Governing Body's Decision on Text Amendment

##### **Section 21.1.1. Intent**

This chapter describes the process of amending this Land Use Management Code.

##### **Section 21.1.2. Authority to Amend**

The Governing Body of the Town shall have the authority to amend any Article, Chapter, or Section of this Land Use Management Code, subject to compliance with the requirements of this Chapter.

##### **Section 21.1.3. Authority to Initiate Text Amendments**

An application to amend the text of this Land Use Management Code may be initiated by the Governing Body or the Planning Commission.

In addition, any person, firm, corporation, or agency may initiate by application to the Zoning Administrator a proposal to amend the text of this Land Use Management Code, provided said individual, firm, corporation, or agency is the owner or owner's agent of property under the jurisdiction of this Land Use Management Code and the amendment sought pertains in some way to said property, and provided further that the applicant has attended a pre-application meeting with the Zoning Administrator to discuss the amendment proposal prior to filing.

#### **Section 21.1.4. Application**

Applications to amend the text of this Land Use Management Code by anyone other than the Governing Body or the Planning Commission shall require submittal of an application fee, application form, and proposed text amendment in a form approved in advance by the Zoning Administrator.

In cases where an applicant is proposing a text amendment to modify or create a new zoning district, and where the applicant also desires to rezone property to the new or modified zoning district, the two applications may be considered concurrently.

#### **Section 21.1.5. Distribution of Application**

After acceptance of a completed application for a text amendment, the Zoning Administrator shall transmit a copy of the application or summary thereof to the Governing Body of the Town.

#### **Section 21.1.6. Notice of Public Hearing**

Upon receipt of a completed application for a text amendment or within a reasonable time thereafter, the Zoning Administrator shall prepare a notice of public hearing before the Planning Commission and of a public hearing before the Governing Body. At least 15 but not more than 45 days prior to the date of the public hearings, the Zoning Administrator on behalf of the Town shall cause to be published within a newspaper of general circulation within Jackson County and Banks County, Georgia, a notice of the public hearings. The notice shall state the time, place, and purpose of the public hearing.

#### **Section 21.1.7. Planning Commission Public Hearing and Recommendation**

The Planning Commission will convene a public hearing on the text amendment as provided in the public notice. The public hearing shall follow policies and procedures which govern calling and conducting public hearings adopted by the Town as required by O.C.G.A. 36-66-4 (Chapter 21.3 of this Land Use Management Code). After the public hearing, the Planning Commission shall provide a recommendation on the application.

The Planning Commission's recommendation shall be submitted to the Governing Body and its recommendations and, if any, its report, shall be upon publication available upon request to the public. The Planning Commission shall have sixty-five (65) calendar days from the date of its public hearing within which to submit its recommendations. The Planning Commission may submit any additional report it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on any Governing Body.

#### **Section 21.1.8. Action by Governing Body**

The Governing Body shall hold a public hearing on the text amendment. In rendering a decision on any such text amendment, the Governing Body shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information presented at the public hearing of The Planning Commission and, if held, information at its own public hearing. The Governing Body may approve or disapprove the proposed text amendment as written.

### **Section 21.1.9. Withdrawal of Application**

Any application for an amendment to the text of this Land Use Management Code may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the Planning Commission is closed.

When any application for a text amendment is initiated by a party other than the Town or the Planning Commission, no portion of a required application fee shall be refunded on any application withdrawn by an applicant after approval for initiation by the Zoning Administrator.

### **Section 21.1.10. Special Notice Requirements**

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. § 36-66-4), which are hereby incorporated by reference, the Zoning Administrator shall ensure that additional public notice requirements are met under the following circumstances:

- (a) When the proposed text amendment relates to or will allow the location of relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency;
- (b) When the proposed text amendment relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses or property so as to authorize multifamily uses of property pursuant to such classification or definition, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, or to provide for the abolition of all single-family residential zoning classifications within the City or that result in the rezoning of all property zoned for single-family residential uses within the City to multifamily residential uses of property.

### **Section 21.1.11. Appeal of Governing Body's Decision on Text Amendment**

- (a) The Governing Body's decision on a text amendment, being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning on the subject property or the validity of conditions or an interim zoning category other than what was requested in the superior court pursuant to its original jurisdiction over declaratory judgments pursuant to O.C.G.A. Chapter 4 of Title 9 and equity jurisdiction under O.C.G.A. Title 23. Review by the superior court shall be de novo, wherein the review brings up the whole record from the Town and all competent evidence shall be admissible at the trial of the appeal, whether adduced in the Town's process or not. The Town's zoning decision will be presumed valid, which presumption shall be overcome substantively by a showing of clear and convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to the public health, safety, morality, or general welfare.
- (b) An appeal of the Governing Body's decision shall be brought within thirty (30) days of the written decision of the challenged or appealed action.



## **CHAPTER 21.2**

### **REZONING, CONDITIONAL USE, AND CONCURRENT VARIANCE APPLICATIONS**

Section 21.2.1.	Types of Applications
Section 21.2.2.	Authority to Amend
Section 21.2.3.	Initiation of Proposals for Map Amendments
Section 21.2.4.	Certain Map Amendments Prohibited.
Section 21.2.5.	Application Compliance and Completeness
Section 21.2.6.	Limitation on Applications Processed During One Cycle
Section 21.2.7.	Application Requirements
Section 21.2.8.	Plan Requirements
Section 21.2.9.	Development Statistics Required
Section 21.2.10.	Analysis Requirements for Map Amendments and Conditional Uses
Section 21.2.11.	Administrative Processing of Applications
Section 21.2.12.	Investigations and Recommendation
Section 21.2.13.	Planning Commission Public Hearing Notice
Section 21.2.14.	Special Notice Requirements
Section 21.2.15.	Planning Commission Hearing and Recommendation
Section 21.2.16.	Governing Body Public Notice and Public Hearing
Section 21.2.17.	Action by Governing Body
Section 21.2.18.	Conditional Approval Permitted
Section 21.2.19.	Limitations on the Frequency of Filing Applications
Section 21.2.20.	Limitations on the Frequency of Filing Applications
Section 21.2.21.	Site Plan Revisions
Section 21.2.22.	Authority to Grant Concurrent Variances
Section 21.2.23.	Regulations That Cannot Be Varied
Section 21.2.24.	Application for Concurrent Variances
Section 21.2.25.	Criteria to Consider for Concurrent Variances
Section 21.2.26.	Incorporation Clause
Section 21.2.27.	Special Use Permit
Section 21.2.28.	Special Notice Requirements
Section 21.2.29.	Appeal of Decisions on Rezoning and Concurrent Variance Applications
Section 21.2.30.	Appeal of Decisions on Special Use Applications

#### **Section 21.2.1. Types of Applications**

The following types of applications are regulated by this Chapter:

- (a) Amendments to the official zoning map (i.e., "rezonings" or "zoning map amendments"), including changes to boundaries of overlay districts.
- (b) Applications for conditional use approval.
- (c) Applications for concurrent variances.

### **Section 21.2.2. Authority to Amend**

The Governing Body may from time to time amend the number, shape, boundary, or area of any zoning district or overlay district as established in this Land Use Management Code.

### **Section 21.2.3. Initiation of Proposals for Map Amendments**

An application to amend the official zoning map or an overlay district established by this Land Use Management Code may be initiated by the Governing Body or the Planning Commission. The Zoning Administrator shall waive the application fee required by this Chapter when an application is initiated by the Governing Body or the Planning Commission.

In addition, any person, firm, corporation or agency, may initiate by application to the Zoning Administrator a proposal to amend a zoning district or overlay district boundary, provided said individual, firm, corporation, or agency is the owner or owner's agent of property that is the subject of the proposed amendment.

### **Section 21.2.4. Certain Map Amendments Prohibited**

No amendment to the official zoning map shall be made, and no applications for such official zoning map amendments shall be accepted by the Zoning Administrator, involving a request to rezone to a zoning district that is specifically prohibited by this Land Use Management Code.

### **Section 21.2.5. Application Compliance and Completeness**

No application described in this Chapter shall be processed by the Zoning Administrator unless it complies with the procedural requirements of this Chapter and is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this Chapter. If an application described and regulated by this Chapter does not comply with all provisions of this Chapter, the Zoning Administrator may reject the application and refuse to process it.

### **Section 21.2.6. Limitation on Applications Processed During One Cycle**

There are practical limits as to how many applications a review body can thoroughly review, consider, and act upon during any single public meeting. It is the intent of this Section to provide for a thorough examination of and adequate hearing time for each application filed pursuant to this Chapter. Accordingly, this Section provides for limitations on the number of applications that will be processed before a review body during any single public hearing.

The number of applications described in this Chapter that are scheduled for consideration by the Planning Commission shall be limited to five (5) such applications at any single public hearing. For purposes of this limitation, one application may include one or more companion applications (i.e., an application for a zoning map amendment, conditional use, and/or concurrent variance pertaining to the same parcel of property shall be counted as one application). Where in the opinion of the Zoning Administrator sufficient time will exist to adequately hear additional applications, the Zoning Administrator may decide to process a number of applications exceeding the maximum of five; Prior to exercising authority to exceed the number of applications to be heard at any given public hearing, the Zoning Administrator shall, where possible, consult with the Chairperson of the Planning Commission as to the appropriateness of considering additional applications.

For purposes of this Section, the Zoning Administrator shall consider applications on a first submitted and first complete, first processed basis. That is, applications shall be processed in the order in which they are received and determined complete, and any application determined complete but which would exceed the maximum of five at any single public hearing shall be scheduled for the next available public hearing. In cases where a complete application cannot be processed and considered at the next available public hearing, due to the limit on applications specified by this Section, the Zoning Administrator shall promptly inform the applicant of the schedule for considering said application.

### **Section 21.2.7. Application Requirements**

No application specified in this Chapter shall be processed by the Zoning Administrator unless it meets the requirements of this Section, including the specific requirements of Table 21.2.1. In cases where more than one application (rezoning, conditional use, concurrent variance) pertaining to a particular piece of property is filed simultaneously, the applicant must prepare separate applications and meet all application requirements for each application filed; provided, however, that the Zoning Administrator may waive separate site plan or letter of intent filing requirements when they would be unnecessarily duplicative.

### **Section 21.2.8. Plan Requirements**

Applications required by this Chapter to include a site plan (see Table 21.2.1) shall at minimum include on the site plan information specified in Table 21.2.2. The Zoning Administrator may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in Table 21.2.2 are not essential to the review process. The Zoning Administrator may request information in addition to that specified in Table 21.2.2 when considered necessary for review of the application by the Planning Commission or Zoning Administrator.

### **Section 21.2.9. Development Statistics Required**

Applications required by this Chapter to submit development statistics and specifications shall at minimum include on the site plan or in written form the information specified in Table 21.2.3. The Planning Commission may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in Table 21.2.3 are not essential to the review process. The Planning Commission may request information in addition to that specified in Table 21.2.2 when considered necessary for review of the application by the Planning Commission.

### **Section 21.2.10. Analysis Requirements for Map Amendments and Conditional Uses**

On the application form supplied by the Zoning Administrator, or in a separate written document, applications to amend the official zoning map, including overlay district boundary amendments, and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in Table 21.2.4. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare. The analysis requirements may in individual cases be considered criteria relevant to staff and the Planning Commission in making recommendations and by the Governing Body in the decision-making process.

Each applicant for an amendment to the text of this ordinance, an amendment to the official zoning map, an application for conditional use or an application for a variance, and each person speaking at a public hearing on such a matter, except the Governing Body or Planning Commission, is responsible for complying with O.C.G.A. 36-67-1, "Conflict of Interest in Zoning Actions." The Zoning Administrator, Planning Commission, and Town assume no further responsibility for enforcing state law or informing applicants or speakers of the need to comply with said state law; provided, however, that the Zoning Administrator may integrate notice of this state law requirement in various application forms and hearing procedural notices.

**TABLE 21.2.1**  
**APPLICATION REQUIREMENTS**

<b>Application Requirement</b>	<b>Amendment to Official Zoning Map</b>	<b>Conditional Use</b>	<b>Concurrent Variance</b>
Application fee as established by resolution	Required	Required	Required
Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner	Required	Required	Required
Legal description of the Property	Required	Required	Required
Survey Plat of the Property	Required	Required	Required
Site analysis and topographic map at an appropriate scale, including information on significant man-made and natural features and streams, wetlands, flood plains, and features to be retained, moved or altered	Required	Required	Required
Letter of intent describing the proposed use of the property or other action requested	Required	Required	Required
Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application	Required	Required	Required
Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements	Required except for rezoning applications to agricultural zoning districts	Required	Required
Statistics regarding the proposed development	Required	Required	Required
Description of any special conditions voluntarily made a Part of the request	Required	Required	No
Other information required by the Zoning Administrator	Required	Required	Required

**TABLE 21.2.2  
PLAN REQUIREMENTS**

<b>Site Plan Requirement</b>	<b>Amendment to Official Zoning Map</b>	<b>Conditional Use</b>	<b>Concurrent Variance</b>
Existing and proposed buildings and structures	Required	Required	Required
Parking and internal circulation	Required	Required	Required
Wetlands, flood plains, streams and state waters	Required	Required	Required
Tree protection survey (lots 5 acres or larger; see Section 16.3.3)	Encouraged	Encouraged	Encouraged
Landscaping and buffers	Required	Required	Required
Preliminary grading and drainage /conceptual	Required	Required	Required
Provisions for outdoor lighting (see Chapter 9.5)	Required	Required	Required
Other information as required by the Zoning Administrator	Required	Required	Required

**TABLE 21.2.3  
DEVELOPMENT STATISTICS REQUIRED**

<b>Development Statics Required: (Note: Percent = Percentage of Total Site Area)</b>	<b>Amendment to Official Zoning Map</b>	<b>Conditional Use</b>	<b>Concurrent Variance</b>
Provision of zoning ordinance requested to be varied, and amount of variance(s) if requested	No	No	Required
Maximum and proposed height of any structure	Required	Required	As Determined to be appropriate by the Zoning Administrator
Maximum and proposed gross square footage of the building area (nonresidential only)	Required	Required	
Maximum and proposed number of dwelling units and minimum and proposed square footage of heated floor area for any dwelling unit (residential only)	Required	Required	
Maximum and proposed lot coverage of building area (square feet and percent)	Required	Required	
Minimum and proposed square footage of landscaped area (square feet and percent)	Required	Required	
Maximum and proposed impervious surface area (square feet and percent)	Required	Required	
Existing and proposed number of parking spaces	Required	Required	
Other information as required by the Zoning Administrator	Required	Required	Required

**TABLE 21.2.4  
ANALYSIS REQUIREMENTS**

<b>Criteria Required to be Analyzed by Applicant and Review Bodies</b>	<b>Application to Amend the Official Zoning Map</b>	<b>Application for Conditional Use</b>
1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property (existing land use)	Required	Required
2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property	Required	Required
3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned	Required	Required
4. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools	Required	Required
5. Whether the proposal is in conformity with the policy and intent of the comprehensive plan including land use element	Required	Required
6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal	Required	Required
7. Existing use(s) and zoning of subject property	Required	Required
8. Existing zoning of nearby property	Required	Required
9. Existing value of the property under the existing zoning and/or overlay district classification	Required	Required
10. Whether the property can be used in accordance with the existing regulations	Required	Required
11. Value of the property under the proposed Optional zoning district and/or overlay district classification	Optional	Required
12. Extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification	Required	No
13. Suitability of the subject property under the existing zoning district and/or overlay district classification for the proposed use	Required	Required
14. Suitability of the subject property under the proposed zoning district and/or overlay district classification	Required	No
15. Length of time the property has been vacant or unused as currently zoned	Required	No
16. Description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district classification	Required	No

**Table Continued on next page**



<b>Criteria Required to be Analyzed by Applicant and Review Bodies</b>	<b>Application to Amend the Official Zoning Map</b>	<b>Application for Conditional Use</b>
17. The possible creation of an isolated zoning district unrelated to adjacent and nearby districts	Required	No
18. Possible effects of the change in zoning or overlay district map, or change in use, on the character of a zoning district or overlay district	Required	Required
19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations	Required	Required
20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality	Required	Required
21. The relation that the proposed map amendment or conditional use 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 zoning regulations	Required	Required
22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances, in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry areal weight.	Required	Required
23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested	Required	No
24. The extent to which the proposed rezoning or conditional use will contribute to or detract from the community with regard to greenspace, architectural design, and landscaping.	Required	Required
25. In the case of rezoning to PCD, the consistency of the application with criteria specified in Section 7.8.12. of this Land Use Management Code.	Required	No

### **Section 21.2.11. Administrative Processing of Applications**

The Zoning Administrator is hereby authorized to establish administrative deadlines for the receipt of applications that require review in accordance with this Chapter. Upon a finding by the Zoning Administrator that an application is complete and complies with the requirements of this Chapter, including deadlines, the application shall be marked received and approved for initiation, and the date of such consideration shall be indicated in the file of the application.

### **Section 21.2.12. Investigations and Recommendation**

Within a reasonable period of time after acceptance of a complete application, the Zoning Administrator may send the application or notice thereof out for review by internal municipal departments and external agencies as may be appropriate (i.e., inter-agency review). Any written comments received in a timely manner shall be submitted to the review bodies for consideration and any such comments shall become public records.

With respect to each rezoning or conditional use application, and any concurrent variances filed, the Zoning Administrator may investigate and make a recommendation regarding any or all of the relevant matters enumerated in Table 21.2.4, or in the case of concurrent variance those matters enumerated in Section 21.2.24, Criteria for Approval of Concurrent Variances. Any such investigation and recommendation shall if in writing be made available to the applicant and planning commission prior to the public hearing held by the planning commission and shall become public records.

Copies of the Zoning Administrator's findings and recommendations shall be available upon request to the public by the time of the Planning Commission's public hearing on the matter.

### **Section 21.2.13. Planning Commission Public Hearing Notices**

Upon receipt of a completed application for an application for map amendment, conditional use, and/or concurrent variance, or within a reasonable time thereafter, the Zoning Administrator shall prepare a public notice of public hearings before the Planning Commission and Governing Body. At least 15 but not more than 45 days prior to the date of the public hearing before the Planning Commission, the Zoning Administrator on behalf of the Town shall cause to be published within newspapers of general circulation within the territorial boundaries of the Town a notice of the public hearing. The notice shall state the time, place, and purpose of the public hearings.

If the application for rezoning, conditional use, and/or concurrent variance is initiated by a party other than the Governing Body or the Planning Commission, then in addition, notice shall include the location of the property, the present zoning classification of the property, the proposed zoning classification of the property, the proposed conditional use if applicable; and the nature of the proposed concurrent variance if applicable; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the Planning Commission and which shall remain through the date of any public hearings advertised thereon.

#### **Section 21.2.14. Special Notice Requirements.**

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. 36-66-6), when a proposed zoning map amendment or conditional use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, the Zoning Administrator shall ensure that the additional public notice requirements of O.C.G.A. 36-66-6 are met.

#### **Section 21.2.15. Planning Commission Hearing and Recommendation**

The Planning Commission shall convene and hold a public hearing and provide a recommendation on all applications specified in this Chapter. The public hearing shall follow policies and procedures which govern calling and conducting public hearings adopted by the Town as required by O.C.G.A. 36-66-4 (Chapter 21.3 of this Land Use Management Code).

The Planning Commission shall make a recommendation after careful study of the application criteria specified in Table 21.2.4 as appropriate, and after review of any investigations and recommendations supplied by the Zoning Administrator. The Planning Commission's recommendations shall be submitted to the Governing Body with jurisdiction, and its recommendations and, if any, its report, shall be available upon request to the interested members of the public at any meeting on the matter held by the Governing Body with jurisdiction. The Planning Commission shall have sixty-five (65) calendar days from the date of its public hearing within which to submit its recommendations. The Planning Commission may submit any additional report it deems appropriate. The recommendations of the Planning Commission shall have an advisory effect only and shall not be binding on the Governing Body with jurisdiction.

#### **Section 21.2.16. Governing Body Public Notice and Public Hearing**

The Governing Body shall hold a public hearing on the proposed application. At least 15 but not more than 45 days prior to the date of the public hearing before the Governing Body, the Zoning Administrator on behalf of the Town shall cause to be published within newspapers of general circulation within the territorial boundaries of the Town a notice of the public hearing. The notice shall state the time, place, and purpose of the public hearings.

If the application for rezoning, conditional use, and/or concurrent variance is initiated by a party other than the Governing Body or the Planning Commission, then in addition, notice shall include the location of the property, the present zoning classification of the property, the proposed zoning classification of the property, the proposed conditional use if applicable; and the nature of the proposed concurrent variance if applicable; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the Governing Body and which shall remain through the date of any public hearings advertised thereon.

### **Section 21.2.17. Action by Governing Body**

The Governing Body shall hold a public hearing on all applications specified in this Chapter. Within a period of sixty-five (65) calendar days from the date of the public hearing held by the Governing Body on any such application(s), said Governing Body shall render a decision on the application(s). In rendering a decision on any such application, the Governing Body with jurisdiction shall consider all information supplied by the Zoning Administrator, the Planning Commission, and any information presented at its own public hearing or that of the Planning Commission. In addition, the Governing Body may but is not required to consider relevant application criteria specified in Table 21.2.4.

### **Section 21.2.18. Conditional Approval Permitted**

The Governing Body may attach conditions to its approval of any application regulated by this Chapter. Unless otherwise specified in the approval, any site plan submitted as a part of the application shall be considered "binding" on the applicant and must be followed.

### **Section 21.2.19. Limitations on the Frequency of Filing Applications**

Any application regulated by this Chapter may be withdrawn at the discretion of the person or agency initiating such a request, upon written notice to the Zoning Administrator, at any time prior to the closing of the public hearing before the Governing Body on the application. When any application is withdrawn not later than ten (10) calendar days from the date of approval for initiation by the Zoning Administrator, one-half (1/2) of the entire application fee paid by the applicant shall be refunded to the applicant. The Zoning Administrator shall refund that portion of the application fee within thirty (30) calendar days of the date of withdrawal of the application. No portion of the required application fee shall be refunded on any application withdrawn by an applicant later than ten (10) calendar days from the date of approval for initiation by the Zoning Administrator. Any application that is withdrawn by the applicant after a public hearing has been closed by the Planning Commission on the matter shall be withdrawn "with prejudice" and shall be subject to the limitations on the frequency of filing and consideration established in Section 21.2.20.

### **Section 21.2.20. Limitations on the Frequency of Filing Applications**

No application regulated by this Chapter and affecting the same or any portion of property which was denied by the Governing Body shall be accepted for filing by a property owner until twelve (12) months shall have elapsed from the date said application was denied by Governing Body.

### **Section 21.2.21. Site Plan Revisions**

For any application specified in this Chapter which requires a site plan, the site plan that is the subject of such application may be revised and resubmitted by the applicant, but in no event shall a revised site plan resubmitted by an applicant be accepted or considered less than ten (10) calendar days prior to the public hearing by the Governing Body; provided, however; said Governing Body may direct an applicant to submit a revised site plan to the Zoning Administrator for its consideration, in which case, the revised site plan shall be submitted to the Zoning Administrator at least fifteen (15) calendar days prior to any final action being taken on the proposed zoning amendment or conditional use by the Governing Body. At its discretion, the Governing Body may refer the site plan back to the Planning Commission for additional study and recommendation, subject to the time initiations established in this Chapter.

### **Section 21.2.22. Authority to Grant Concurrent Variances**

The intent of this Section is to permit the filing of an application for variance simultaneously with a rezoning or conditional use application, or both, and have both the concurrent variance and companion application(s) considered in the same cycle of review.

The Governing Body may consider and approve, approve with conditions, or deny an application for one or more variances when such application is made simultaneously (i.e., concurrent variance) with an application for a zoning map amendment, conditional use, and/or application to amend the overlay districts map. In such cases, the Planning Commission shall provide a recommendation on the concurrent variance in addition to the companion application(s). The Planning Commission shall recommend, and the Governing Body shall act on any concurrent variance in a separate motion after recommending or acting, respectively, on the other companion application(s).

Any application for a variance not filed simultaneously with another application for discretionary approval shall be processed and considered in accordance with the provisions of Article 22.

### **Section 21.2.23. Regulations That Cannot Be Varied**

Concurrent variances shall not be granted to the following regulations:

- (a) Minimum lot sizes.
- (b) Use variances that would permit a use which is not permitted in the zoning district pertaining to the subject property.

### **Section 21.2.24. Application for Concurrent Variances**

Any applicant requesting consideration of a concurrent variance to any provision of the Land Use Management Code shall make application for said variance in accordance with the requirements of this Chapter.

### **Section 21.2.25. Criteria to Consider for Concurrent Variances**

Any applicant requesting consideration of a concurrent variance to any provision of this Land Use Management Code except variances to Articles 26, 27, 28, and 29, shall provide a written justification that one or more of the following condition(s) exist. The Governing Body shall not approve the concurrent variance application unless it shall have adopted findings that all of the following conditions exist.

- (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
- (c) 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.
- (d) The requested variance will be in harmony with the purpose and intent of this Land Use Management Code and will not be injurious to the neighborhood or to the general welfare.
- (e) The special circumstances are not the result of the actions of the applicant.
- (f) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
- (g) The variance shall not permit the use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

### **Section 21.2.26. Incorporation Clause**

This Chapter is intended to comply with the provisions of the Georgia Zoning Procedures Law, O.C.G.A. § 36-66 et. seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this Chapter is in conflict with any provision of the Law, the Law shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Law, such provision of the Law, so as to meet the mandate of the Law, shall be fully complied with.

### **Section 21.2.27 Special Use Permits**

Special Use Permits may be authorized, as prescribed herein and as expressly permitted as a Special Use within a particular Zoning District, by the Governing Body after notice and Public Hearings in accordance with the policies and procedures outlined in Article 21. The Governing Body reserves the authority to deny any request or to impose conditions on a use as deemed appropriate to protect the public health, safety, morality or general welfare.

#### **Section 21.2.27 (a) Minimum Parcel Size**

No tract or parcel of land shall be considered for a Special Use Permit that has an area, width or road frontage less than the minimum required area, width or road frontage for the Zoning District of the property, unless accompanied by an Application for Variance otherwise authorized by this code.

#### **Section 21.2.27(b) Procedure for Consideration of a Special Use Permit**

- (1) An application for a Special Use Permit shall be accompanied by the fee required for conditional use applications and shall be filed with the Zoning Administrator, containing at a minimum the information required by this Ordinance under this Article 21, and the Application shall proceed in accordance with the procedures required for Notice and Hearing as provided for in this Article 21.
- (2) In considering the application for Special Use Permit, the Governing Body shall apply review standards consistent with its review of other applications under Article 21.
- (3) The Governing Body may place any reasonable conditions or stipulations upon the proposed Special Use Permit as deemed necessary (such as hours of operation, parking, maximum building size, outside displays, etc.) to further ensure the orderly operation of the proposed use(s) and its compatibility with the surrounding properties.
- (4) The decision rendered by the Governing Body regarding the proposed Special Use Permit shall be deemed to be the final action on the Application.
- (5) No amendment, supplement, change or repeal of the final action by the Governing Body shall become effective unless said amendment, supplement, change or repeal is approved after a Public Hearing.

#### **Section 21.2.27 (c). Expiration of Special Use Permit**

Once established, a Special Use Permit must remain in continuous operation in order to remain valid. A Special Use Permit shall automatically expire under the following circumstances:

- (1) If operations or construction has not commenced and continued within six (6) months of the date of approval by the Governing Body .
- (2) If operations on such property have ceased for a period of twelve (12) months.

### **Section 21.2.28 Special Notice Requirements**

Pursuant to the specific requirements of the Zoning Procedures Law (O.C.G.A. § 36- 66-4), which are hereby incorporated by reference, the Zoning Administrator shall ensure that additional public notice requirements are met under the following circumstances:

- (a) When the zoning decision at issue relates to or will allow the location of relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency;
- (b) When the zoning decision at issue relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses or property so as to authorize multifamily uses of property pursuant to such classification or definition, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, or to provide for the abolition of all single-family residential zoning classifications within the City or that result in the rezoning of all property zoned for single-family residential uses within the City to multifamily residential uses of property.

### **Section 21.2.29 Appeal of Decisions on Rezoning and Concurrent Variance Applications**

- (a) The Governing Body's decision on a rezoning or a concurrent variance application, being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning on the subject property or the validity of conditions or an interim zoning category other than what was requested in the superior court pursuant to its original jurisdiction over declaratory judgments pursuant to O.C.G.A. Chapter 4 of Title 9 and equity jurisdiction under O.C.G.A. Title 23. Review by the superior court shall be de novo, wherein the review brings up the whole record from the Town and all competent evidence shall be admissible at the trial of the appeal, whether adduced in the Town's process or not. The Town's zoning decision will be presumed valid, which presumption shall be overcome substantively by a showing of clear and convincing evidence that the zoning classification is a significant detriment to the petitioner and is insubstantially related to the public health, safety, morality, or general welfare.
- (b) An appeal of the Governing Body's decision shall be brought within thirty (30) days of the written decision of the challenged or appealed action.



### **Section 21.2.30 Appeal of Decisions on Special Use Applications**

- (a) The Governing Body's decision resulting in the grant or denial of a special use approval is subject to appellate review by the superior court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of petition for such review as provided for in O.C.G.A. Title 5. Such matters shall be reviewed on the record which shall be brought up to the to the superior court as provided in O.C.G.A. Title 5.
- (b) An appeal of the Governing Body's decision to grant or deny a special use approval shall be brought within thirty (30) days of the written decision of the challenged or appealed action.
- (c) The Mayor or his/her designee shall have the authority, without additional action by the Town, to approve or issue any form or certificate necessary to perfect the petition described in Section 21.2.26(a), and has authority to accept and shall accept service of such petition on behalf of the Town, during normal business hours, at the regular offices of the Town.

## **CHAPTER 21.3**

### **PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS**

Section 21.3.1.	Applicability
Section 21.3.2.	Presiding Officer
Section 21.3.3.	Opening of Public Hearing
Section 21.3.4.	Report of Zoning Administrator
Section 21.3.5.	Applicant
Section 21.3.6.	Public
Section 21.3.7.	Applicant's Rebuttal
Section 21.3.8.	Close of Hearing
Section 21.3.9.	Decision

#### **Section 21.3.1. Applicability**

Any public hearing required by this Article except those pursuant to Chapter 21.4 of this Article shall be called and conducted in accordance with the procedures of this Chapter. For purposes of this Chapter, the term "hearing body" shall refer to the Governing Body and the Planning Commission. Nothing contained in this Chapter shall be construed as prohibiting a presiding officer or hearing body from conducting a public hearing in a fair, orderly, and decorous manner.

#### **Section 21.3.2. Presiding Officer**

The presiding officer shall preside over the public hearing. In the case of a Governing Body, the Mayor shall preside, or in the absence of the Mayor the Mayor Pro Tempore, or in the absence of both the Mayor and Mayor Pro Tempore, another member of the Governing Body shall be designated to preside over the public hearing. In the case of the Planning Commission, the chairperson of said commission shall preside, or in the absence of the chairperson, the vice chairperson if designated, or if neither is present to preside, another member of the commission shall be designated to preside. Any presiding officer shall be authorized to have the City Attorney conduct any hearing.

#### **Section 21.3.3. Opening of Public Hearing**

The presiding officer shall indicate that a public hearing has been called on one or more applications made pursuant to this Article, shall summarize the processes required by this Chapter, and shall open the public hearing. Thereupon, the presiding officer shall call the first case and the hearing body shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the hearing body; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and when proceedings would be efficiently completed by combining separately required public hearings and discussing more than one scheduled matter as a single group of applications.

#### **Section 21.3.4. Report of Zoning Administrator**

Upon opening the public hearing, the presiding officer shall recognize the Zoning Administrator or designee, who shall provide a summary of the application and present any recommendations or results of investigations. In the case of public hearings before a Governing Body, unless a member of the Planning Commission is present and is authorized and willing to speak for the Planning Commission on the subject application, the Zoning Administrator shall also summarize the recommendations made by the Planning Commission. Any member of the hearing body upon recognition by the presiding officer may ask questions of the Zoning Administrator or designee or planning commission representative providing the report or recommendations.

#### **Section 21.3.5. Applicant**

When an individual application comes up for hearing, the presiding officer may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of that which may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations. Following the report of the Zoning Administrator or designee, the presiding officer shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application.

There shall be a minimum time period of ten (10) minutes per application at the public hearing for the proponents to present data, evidence, and opinions; the hearing body shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time. Any member of the hearing body upon recognition by the presiding officer may ask questions of the applicant or agent of the applicant, or both.

#### **Section 21.3.6. Public**

At the conclusion of the applicant's presentation, the presiding officer shall initiate the public comment portion of the public hearing. When an individual application comes up for review, the presiding officer may ask for a show of hands of those persons who wish to ask questions, make comments, and/or appear in opposition to the application. If it appears that the number of persons wishing to appear in opposition to the application, make comments, or ask questions, is in excess of that which may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations and ask questions. There shall be a minimum time period of ten (10) minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions; the hearing body shall not be obligated to provide the full ten-minutes per application to the opponents if they elect not to use that much time.

Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his or her remarks only to the hearing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.

The hearing body will consider the questions raised during the public portion of the hearing and may elect to answer questions following the speakers, or it may defer questions to the applicant to be answered during rebuttal.

Any member of the hearing body upon recognition by the presiding officer may ask questions of a member of the public giving testimony.

#### **Section 21.3.7. Applicant's Rebuttal**

At the conclusion of public testimony, or upon the expiration of time allotted for public testimony, the applicant or his or her agent, or both, shall be allowed a short opportunity for answer questions, rebut the testimony of the public, and provide final comments and remarks. The time devoted to any such rebuttal shall be counted toward the total ten (10) minutes allotted to the applicant under Section 21.3.5, if such a time limit is set by the presiding officer. Any member of the hearing body upon recognition by the presiding officer may ask questions of the applicant, his or her agent, or both.

#### **Section 21.3.8. Close of Hearing**

After the foregoing procedures have been completed, the presiding officer will indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer address the hearing body in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding officer may reopen the public hearing for a limited time and purpose.

#### **Section 21.3.9. Decision**

After the public hearing is closed, the hearing body may either vote upon the application at a meeting immediately following the hearing or may delay its vote to a subsequent meeting, subject to the limitations of this Article, provided that notice of the time, date and location when such application will be further considered shall be announced at the close of the public hearing.

After hearing evidence, in making a decision, the hearing body shall apply the evidence to the criteria specified in this Article for the application in question and other considerations and recommendations as may be considered appropriate. It will not be required that the hearing body consider every criterion specified in this Article as provided in Table 21.2.4 or as otherwise applicable. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, morality or general welfare.

If the hearing body determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the hearing body on its own initiative or as recommended by the Zoning Administrator or Planning Commission. Otherwise, such application shall be denied. In cases where one or more companion applications are submitted and the Governing Body attaches conditions to the application; such conditions shall unless otherwise specifically stated otherwise become conditions of approval for each companion application.

## CHAPTER 21.4

### DEVELOPMENT OF REGIONAL IMPACT

Section 21.4.1.	Definitions
Section 21.4.2.	Applicability
Section 21.4.3.	Jurisdiction
Section 21.4.4.	Procedures

#### Section 21.4.1. Definitions

**Initial DRI information form:** A form intended to identify basic information about a proposed development of regional impact on which a local government is being requested to take action, and which provides information to the appropriate Regional Development Center (RDC). This form notifies the RDC of a potential development of regional impact in order for the RDC to meet its responsibilities within the DRI review process.

**DRI Review initiation request form:** A form intended to provide additional information about the proposed project to the Regional Development Center (RDC), the submission of which serves as an official request that the DRI review process be started by the RDC.

#### Section 21.4.2. Applicability

This chapter shall apply when an applicant (industry; business, or developer) requests some type of local government action related to a project, such as, but not limited to, a request for rezoning, zoning variance, permit, hookup to a water or sewer system, master or site plan approval, or entering into a contract, and it appears that the proposed development (or, for multi-phased projects, the complete development) meets the threshold(s) of a development of regional impact, according to "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001, as may be amended from time to time.

#### Section 21.4.3. Jurisdiction

If a proposed development project is to be located in more than one jurisdiction and, in total, the proposed development meets or exceeds a DRI threshold, the local government in which the largest portion of the project is to be located is responsible for initiating the DRI review process.

#### **Section 21.4.4. Procedures**

The application procedures established in Chapter 21.3 will be modified by this Chapter in cases where a rezoning request or conditional use application fits the definition of a "development of regional impact." Developments of regional impact will be processed according to procedures of the Georgia Department of Community Affairs as described in "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001", as may be amended from time to time.

When an application is received for development that meets or exceeds the thresholds established for that development type and thus constitutes a "development of regional impact" according to the aforementioned Rules of the Georgia Department of Community Affairs, the local government with jurisdiction will follow the procedures identified in said administrative rules which are summarized here.

When an application for a development of regional impact is received, the Zoning Administrator on behalf of the Town will complete an "Initial ORI Information" form and an "ORI Review Initiation Request" form. Each of these two forms may be submitted to the Regional Development Center simultaneously, provided the Town has all necessary project-related information.

The Town shall not take any official legislative or administrative action to advance or further an ORI project until the review process identified under the DRI review procedure specified in "Rules of Georgia Department of Community Affairs, Chapter 110-12-3, Developments of Regional Impact, Effective July 1, 2001," as may be amended from time to time, is completed. The Town may undertake preliminary staff administrative functions associated with a proposed ORI including, but not limited to, project evaluation/assessment, site visits, and placing consideration of the application on a future agenda for formal action, if required. The Town shall not take any official action related to such a project until the ORI review process is completed and the Town has had adequate time to consider the ORI review comments.

After the ORI review process is completed, the Town may proceed with whatever action it deems appropriate regarding the proposed project, although it is encouraged to take the public finding and additional comments into consideration as it makes its decision.

If the project receives a negative public finding from the Regional Development Center and the Town approves said project or takes action to advance said project, the Town shall notify the Regional Development Center and the Georgia Department of Community Affairs of its action and identify all local requirements it has placed on the development that could mitigate any negative findings identified in the ORI review process.

## CHAPTER 21.5

### CERTIFICATE OF APPROPRIATENESS

Section 21.5.1.	Definitions
Section 21.5.2.	Certificate of Appropriateness Required
Section 21.5.3.	Pre-Application Conference
Section 21.5.4.	Application Requirements
Section 21.5.5.	Notice and Public Hearing
Section 21.5.6.	Criteria for Acting on Certificates of Appropriateness
Section 21.5.7.	Action
Section 21.5.8.	Action on Demolitions
Section 21.5.9.	Certificates Involving Relocations
Section 21.5.10.	Rejection of Certificate
Section 21.5.11.	Appeal
Section 21.5.12.	Validity and Conformance after Certificate is Issued
Section 21.5.13.	Enforcement
Section 21.5.14.	Incorporation Clause

#### Section 21.5.1. Definitions

**Certificate of appropriateness:** A document evidencing approval by the Maysville Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property including landmark, or of a property located within a designated historic district.

**Exterior architectural features:** The architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

**Exterior environmental features:** All those aspects of the landscape or the development of the site which affect the historical character of the property.

**Historic district:** A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibits a special historical, architectural, or environmental character as designated by the Governing Body.

**Historic property:** An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Governing Body.

**Material change in appearance:** A change that will affect either the exterior architectural features or exterior environmental features of an historic property or any structure, site or work of art within an historic district, and may include any on or more of the following: A reconstruction or alteration of the size, shape, or facade of an historic property, including any of its architectural elements or details; demolition of an historic structure; commencement of excavation for construction purposes; a change in the location of advertising visible from the public right-of-way; the erection, alteration, restoration, or removal of any building or other structure within an historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

### **Section 21.5.2. Certificate of Appropriateness Required**

Within Town Historic Districts as established in Section 3.3 of this Land Use Management Code, and after the designation by ordinance of any other historic district or property, no "material change in the appearance," as defined by this Chapter, of such historic property, or of a structure, site, or work of art within such historic district, or any individual historic property, shall be made or be permitted to be made by the owner or occupant thereof, unless or until application for a certificate of appropriateness has been submitted to and approved by the Historic Preservation Commission. A certificate of appropriateness must be issued by the Zoning Administrator after approval by the Historic Preservation Commission, prior to any material change in appearance in such district or to any property.

Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a historic property, which maintenance or repair does not involve a material change in design, material, or outer appearance thereof, nor to prevent the property owner from making any use of his property not prohibited by other laws, ordinances, or regulations.

### **Section 21.5.3. Pre-Application Conference**

All applicants for a certificate of appropriateness are strongly encouraged but not required to schedule a pre-application conference with the Zoning Administrator or his or her designee. A pre-application conference is a time where applicants can familiarize themselves with the application requirements and processes and gain preliminary input from staff as to the suitability of the proposed material change in appearance. Typically, the Historic Preservation Commission is not represented at the pre-application conference, although this does not preclude one or less than a quorum of members of the commission from attending and participating in a pre-application conference.

### **Section 21.5.4. Application Requirements**

All applications for a certificate of appropriateness shall be made as required by the Zoning Administrator and shall at minimum contain the following information:

- (a) **Elevation drawings and color and material samples** - Every application or review involving the construction of a new building or structure and alterations and/or additions to existing structures in any historic district or within a property designated as a historic property shall be accompanied by exterior elevation drawings drawn to scale and signed by an architect, engineer, or other appropriate professional and submitted in sufficient number of copies as required by the Zoning Administrator. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed change(s) to buildings or structures and new construction, as applicable. Each application shall also indicate proposed materials, textures and colors and provide samples of materials and colors. This requirement for drawings may be waived by the Zoning Administrator in cases of minor applications where photographs and descriptions will provide sufficient information for the Historic Preservation Commission to decide upon the change.



- (b) **Photographs** - All applications shall be accompanied by photographs of all sides of the existing building(s) or structure(s), and landscape(s) affected, and of existing building(s), structure(s), and land scape(s) on adjoining properties. Applications for the demolition of structures shall be accompanied by photographs of all sides of the building under consideration for demolition and photographs showing contiguous properties. Photographs shall be submitted in printed copy and in digital form unless otherwise specified by the Zoning Administrator.
- (c) **Site plan and landscaping plan** - For every application relating to a subdivision, commercial or industrial use, a plot plan or site plan drawn to scale shall be submitted which shows all improvements affecting appearances, such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs, lights, and other elements. In the case of a building or structure demolition, the site plan and landscaping plan shall show how the foundation area is proposed to be restored.
- (d) **Fee** - A fee, as may be established by the Governing Body with jurisdiction shall be submitted for said application.
- (e) **Additional information** - Any additional information as may reasonably be required by the Zoning Administrator shall be submitted with the application.
- (f) **Waiver** - Where the requested change involves a minor change in the opinion of the Zoning Administrator, he/she may vary or waive any of the information requirements of this section for applications for a certificate of appropriateness.

#### **Section 21.5.5. Notice and Public Hearing**

At least ten (10) days notice of the time and place of each public hearing and the address and applicant for the certificate of appropriateness shall be given by the Zoning Administrator as follows:

- (a) In writing to the applicant and abutting property owners.
- (b) By publication at least once in the form of an advertisement in newspapers of general circulation within the Town or the legal organs.
- (c) By sign posted on the premises of the building or structure proposed for demolition in a location clearly visible from a street.

When the application for Certificate of Appropriateness involves the demolition of a building or structure, notice shall be published in newspapers of general local circulation at least three times prior to the date of the hearing. The purpose of this subsection is to further the purposes of this Chapter by preserving historic buildings which are important to the education, culture, traditions, and the economic values of the Town and to give the Town's interested persons, historical societies, or organizations the opportunity to acquire or to arrange for the preservation of such buildings.

### **Section 21.5.6. Criteria for Acting on Certificates of Appropriateness**

In passing judgment on applications for certificates of appropriateness, the Historic Preservation Commission shall consider the appropriateness of any proposed material change in appearance in the context of the following criteria:

- (a) Consistency with the U.S. Secretary of the Interior's "Standards of Rehabilitation."
- (b) Consistency with any adopted design guidelines for historic districts or historic properties.
- (c) Expert advice, if any is sought on the matter.
- (d) The nature and character of the surrounding areas and the consistency of the proposed application with such nature and character.
- (e) The general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials, and colors of the structure in question and the relation of such elements to similar features of structures in the immediate surrounding area and the site and landscaping.
- (f) The proposed material change (s) in appearance's overall effects on the aesthetic, historic, or architectural significance and value of the historic property or the historic district.
- (g) The historical and architectural value and significance, architectural style, general design arrangement, texture, and material of the architectural features involved. The commission shall not consider interior arrangement or use having no effect on exterior architectural features.

### **Section 21.5.7. Action on Certificates**

The Historic Preservation Commission shall approve or reject an application for a certificate of appropriateness within forty-five (45) days after the filing of a complete application. Where a mutual agreement has been made by the applicant and the Commission for an extension of the time limit, additional time may be taken.

The Historic Preservation Commission shall approve the application and issue a Certificate of Appropriateness if it finds that the proposed material change (s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of historic property or the historic district.

The Commission shall deny a Certificate of Appropriateness if it finds that the proposed material change (s) in appearance would have substantial adverse effects on the aesthetic, historic, or architectural significance and value of the historic property or the historic district. The Historic Preservation Commission may deny an application for a Certificate of Appropriateness when in the opinion of the Commission such proposed change would be detrimental to the interests of the historic district or historic property and the public. Among other grounds for considering a design inappropriate are the following defects: character foreign to the area, arresting and spectacular effects, violent contrasts of material, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, and the absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

### **Section 21.5.8. Certificates Involving Demolitions**

A decision by the Historic Preservation Commission approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, sites, trees judged to be 50 years old or older, or objects shall be guided by the following criteria:

- (a) The historic, scenic or architectural significance of the building, structure, site, tree or object.
- (b) The importance of the building, structure, site, tree, or object to the ambiance of a district.
- (c) The difficulty or the impossibility of reproducing such a building, structure site, tree, or object because of its design, texture, material, detail, or unique location.
- (d) Whether the building, structure, site, tree, or object is one of the last remaining examples of its kind in the neighborhood or the Town.
- (e) Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be. Where such plans or intentions are evident to the Historic Preservation Commission, it shall not grant permission to demolish a building or structure within its jurisdiction without reviewing at the same time the plans for the building or structure that would replace the building or structure proposed to be demolished.
- (f) Whether reasonable measures can be taken to save the building, structure, site, tree, or object from collapse.
- (g) Whether the building, structure, site, tree, or object is capable of earning reasonable economic return on its value.
- (h) Whether the structure is of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an historic or architectural landmark.

### **Section 21.5.9. Certificates Involving Relocations**

A decision by the Historic Preservation Commission approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object from the historic property or district shall be guided by the following criteria:

- (a) The historic character and aesthetic interest in the building, structure or object contributes to its present setting.
- (b) Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be.
- (c) Whether the building, structure or object can be moved without significant damage to its physical integrity.
- (d) Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.

### **Section 21.5.10. Rejection of Certificate**

In the event the Historic Preservation Commission rejects an application for a certificate of appropriateness, it shall state its reasons for doing so and shall transmit a record of such action and the reasons there for, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. If he or she so desires, the applicant may make modifications to the plans and may resubmit the application at any time after doing so. The denial of an application for a certificate of appropriateness shall be binding on the Zoning Administrator and, in such a case of denial, no development permit shall be issued by the Zoning Administrator and no building permit shall be issued by the Building Inspector.

### **Section 21.5.11. Appeal**

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the Governing Body; the appeal must be applied for within fifteen (15) days after notification is sent. The Governing Body may approve, modify, or reject the determination made by the Commission, if the Governing Body finds that the Commission abused its discretion in reaching its decision. The Governing Body shall notify the Commission of any appeal of an application prior to the council meeting. Appeals from decisions of the Governing Body made pursuant to this Chapter may be taken to the Superior Court of the County having jurisdiction, in the manner provided by law, for appeals from conviction for municipal or county ordinance violations.

### **Section 21.5.12. Validity and Conformance after Certificate is Issued**

A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of date of issuance. Certificates of Appropriateness shall not be required to be renewed. All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate.

### **Section 21.5.13. Enforcement**

In the event work is performed not in accordance with such certificate, the Zoning Administrator shall issue a cease and desist order and all work shall cease. The Zoning Administrator shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this Chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.

### **Section 21.5.14. Incorporation Clause**

This Chapter is intended to comply with the provisions of the Georgia Historic Preservation Act, O.C.G.A. § 44-10-20 et. seq., which Act is incorporated by reference in its entirety into this Chapter. Where any provision of this Chapter is in conflict with any provision of the Act, the Act shall control. Or where this Chapter is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.