

## **ARTICLE 9 GENERAL DEVELOPMENT REGULATIONS**

Chapter 9.1	PURPOSE AND GENERAL PROVISIONS
Chapter 9.2	ACCESS
Chapter 9.3	GENERAL ARCHITECTURAL BUILDING REQUIREMENTS
Chapter 9.4	OUTDOOR LIGHTING
Chapter 9.5	NOISE

### **CHAPTER 9.1 PURPOSE AND GENERAL PROVISIONS**

Section 9.1.1.	Purpose and Intent
Section 9.1.2.	Applicability
Section 9.1.3.	Inventory of Site Features

#### **Section 9.1.1. Purpose and Intent**

It is the intent of this Article to ensure that building and site designs of new developments achieve high quality standards and appearances which will enhance the character of the surrounding area. This Article is intended to guide the site planning and design of projects. Development proposals are required, through the site plan review process, to carefully address the potential undesirable impacts on adjoining land uses. Impacts may include traffic, parking, circulation and safety issues, light and glare, noise, odors, dust control, and security concerns.

#### **Section 9.1.2. Applicability**

This Article shall apply to all developments except for detached, single-family dwellings on individual lots and two-family dwellings on individual lots, except as otherwise specifically provided or exempted in this Article.

#### **Section 9.1.3. Inventory of Site Features**

Significant site features such as natural ground forms, large rock outcroppings, water and significant view corridors shall be identified on an existing conditions map and to the extent practicable should be incorporated into the site plan or plans for development. The Zoning Administrator may exempt development proposals on properties with two acres or less in area from this requirement if through a site visit or other information presented the requirement for a site conditions analysis can be satisfied with other data and enforcing this requirement would be onerous given the development proposed.

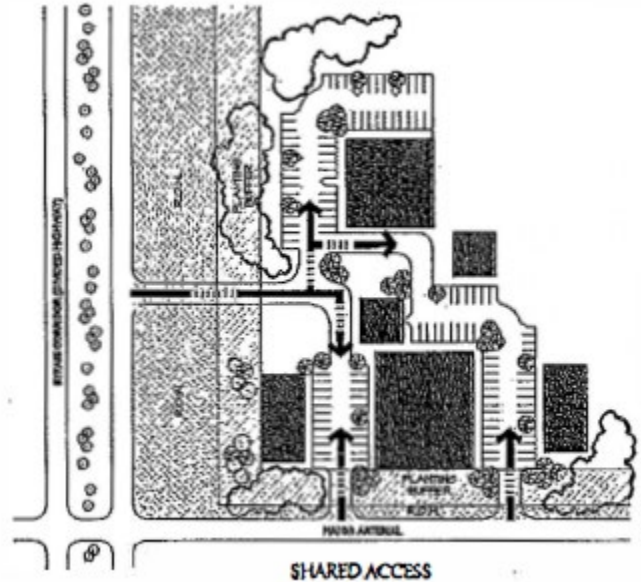
## CHAPTER 9.2

### ACCESS

Section 9.2.1.	Principal Access
Section 9.2.2.	Inter-parcel Access
Section 9.2.3.	Service Functions
Section 9.2.4.	Driveway Permit Required
Section 9.2.5.	Driveway and Curb Cut Specifications
Section 9.2.6.	Minimum Driveway Throat Lengths
Section 9.2.7.	On-Site Access Requirements
Section 9.2.8.	Pedestrian Facilities

#### Section 9.2.1. Principal Access

The entire parcel, rather than simply a particular project, shall be considered in formulating and approving access plans. Shared driveways between two parcels along the common property line may be required by the Zoning Administrator. In such cases, each property owner shall grant an access easement to facilitate the movement of motor vehicles across the site.



#### Section 9.2.2. Inter-parcel Access

Abutting properties which do not provide interconnecting access to one another make it difficult and dangerous, if not impossible, for motorists to travel between those properties. This Section shall apply to all new office, commercial, institutional, and industrial developments and major building renovations and repaving projects of office, commercial, institutional, and industrial developments. Inter-parcel access for vehicles between abutting and nearby properties shall be provided so that access to individual properties can be achieved between adjacent and nearby developments as an alternative to forcing all movement onto abutting highways and public roads, unless the Zoning Administrator determines that it is unnecessary to provide inter-parcel access due to the unlikelihood of patrons traveling among two or more existing or proposed uses on abutting or nearby sites. Where opportunities for shared access have been identified by the Zoning Administrator, developments must provide shared access with adjoining properties to facilitate frontage roads and connections between parcels. The property owner shall grant an access easement to facilitate the movement of motor vehicles from site to site.

The location of vehicular connections across a property line shall be mutually determined and constructed by both property owners. Connection of parking areas for vehicular access may be provided in the front portion of the site. In cases where it is not possible to provide the connection in front, it may be provided in the rear portion of the site. In the case of coordination problems or any factors preventing construction of an inter-parcel connection, the Zoning Administrator will determine the location of the inter-parcel connection to be constructed by property owners.

### Section 9.2.3. Service Functions

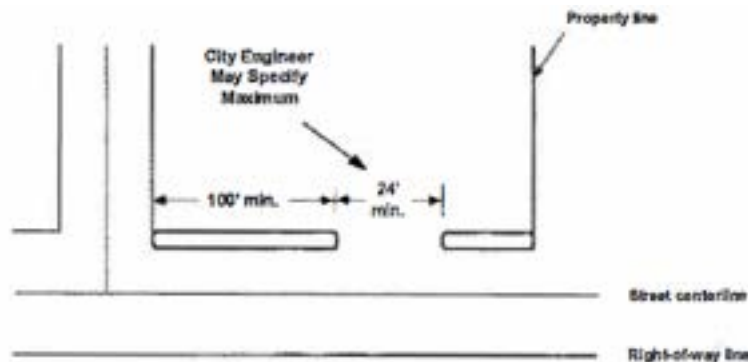
Service functions (e.g., deliveries, maintenance activities), when present or required as part of a development, shall be integrated into the circulation pattern in a manner which minimizes conflicts with vehicles and pedestrians. Office, institutional, commercial, and industrial developments on tracts of five acres or more shall have access to service and loading areas separated from main circulation and customer parking areas. Loading areas shall be located in accordance with Section 12.5.3 of this Land Use Management Code.

### Section 9.2.4. Driveway Permit Required

This Section shall apply to all developments, including single-family detached dwellings. No driveway shall be connected to a public street, and no curbs or medians on public streets or rights-of-ways shall be cut or altered for access without a driveway permit issued by the zoning administrator, which may require a storm drainage culvert of a size specified by the zoning administrator.

### Section 9.2.5. Driveway and Curb Cut Specifications

Except for driveways serving individual single-family detached dwellings, no curb cut or access driveway shall be permitted to be located closer than one hundred (100) feet to the nearest existing or proposed right-of-way of an intersecting roadway. Except for driveways serving individual residences or one-way traffic, curb cuts or access driveways shall be no narrower than twenty-four (24) feet from back of curb to back of curb.

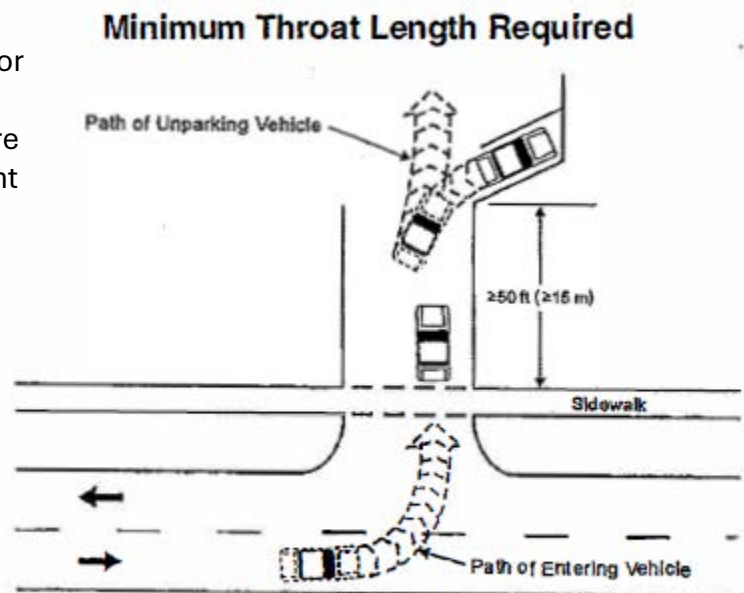


**Curb Cuts and Access Specifications**

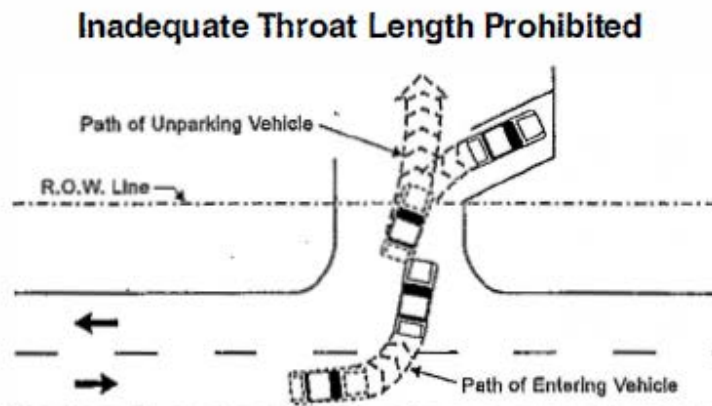
Strict adherence to these requirements may not be practical in all instances as determined by the zoning administrator. The zoning administrator may limit the maximum width of a curb cut and/or the number of curb cuts to a parcel as necessary when it is deemed to be of benefit to the safety and welfare of the public.

### Section 9.2.6. Minimum Driveway Throat Lengths

When located on a collector or arterial street and serving parking of five spaces or more and/or a loading area, the driveway entry "throat" shall provide at least fifty (50) feet of clear zone before a turning movement occurs, to provide sufficient queuing room for cars and/or delivery vehicles entering off the collector or arterial street.



Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 7-22, p. 7-31.

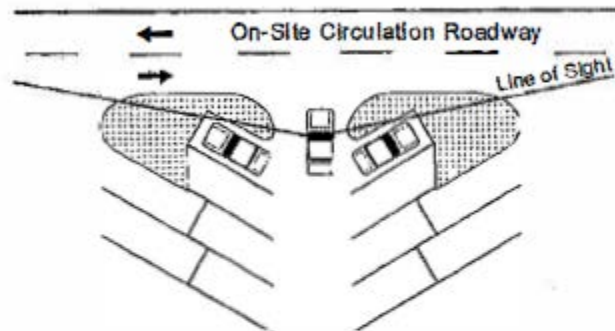


Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 7-21, p. 7-30.

### Section 9.2.7. On-Site Access Requirements

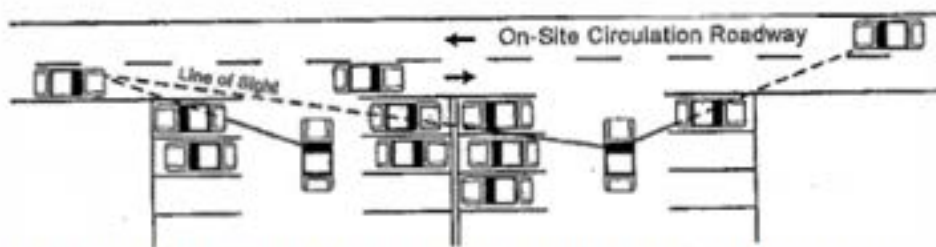
The intersection of parking aisles with a ring road or other on-site roadways or driveways shall provide adequate intersection sight distance. Landscaping at the end islands of parking aisles shall not encroach on sight distance as determined by the Zoning Administrator. Parking aisle end islands shall be curbed unless that requirement is waived for water quality purposes or in a rural/exurban area; painted end islands are ineffective and are generally not permitted.

#### End Islands Preserve Sight Distance



Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 8-15, p. 8-25.

#### Inadequate Sight Distance Due To No Parking Aisle End Islands



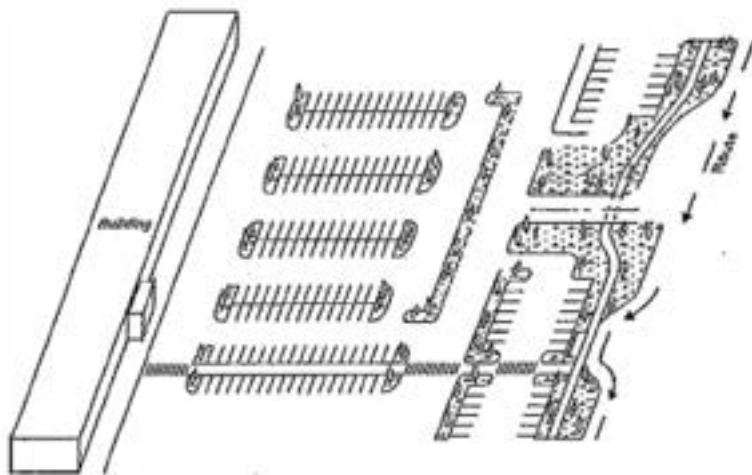
Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 8-14, p. 8-24.

### Section 9.2.8. Pedestrian Facilities

On any particular development site subject to this Chapter, where pedestrian circulation crosses vehicular routes, a change in grade, materials, textures or colors, or appropriate striping or demarcation, shall be provided to emphasize the point of intersection between pedestrians and vehicles and improve its visibility and safety. For instance, brick pavers and other special paving materials can help to distinguish pedestrian walkway surfaces from vehicular access ways.



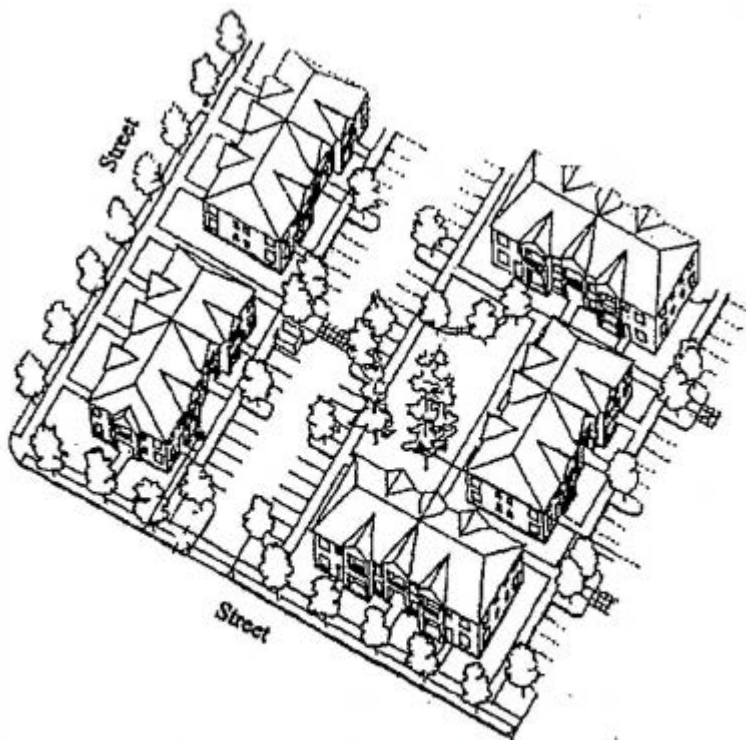
Except for detached, single family dwellings, pedestrian access must be provided to individual developments and each establishment within the development. Pedestrian ways shall be well defined, take as direct a path as possible, and they should be separated where practical from automobile access ways. Parking aisle dividers are appropriate locations for pedestrian access facilities.



### Direct Pedestrian Travel from Street to Store Front

Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 8-28, p. 8-35.

When multiple buildings are proposed, they shall be linked with on-site pedestrian walkways. Sidewalks on individual properties must connect to the sidewalk system within public road right-of-way, where such system exists or is planned, and to adjacent parcels when determined to be compatible and required by the Zoning Administrator.



### Illustrative Direct Pedestrian Connections From Buildings to Streets

## CHAPTER 9.3

### GENERAL ARCHITECTURAL BUILDING REQUIREMENTS

Section 9.3.1.	Definitions
Section 9.3.2.	Primary Building Materials
Section 9.3.3.	Prohibitions
Section 9.4.4.	Awnings and Canopies
Section 9.3.5.	Building Facades
Section 9.3.6.	Building Accessories
Section 9.3.7.	Retaining Walls
Section 9.3.8.	Decorative Walls
Section 9.3.9.	Fencing
Section 9.3.10.	Utility Undergrounding

#### Section 9.3.1. Definitions

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

**Architectural recesses:** Portions of a building wall at street level which are set back from the street line so as to create articulation of the building wall and/or to provide space for windows or doors.

**Awning:** A hood or cover that forms a roof-like structure, often of fabric, metal, or glass, designed and intended for the protection from the weather or as a decorative embellishment, and which projects from the wall or roof of a structure over a window, walk, door, or the like. Awnings may be retractable but are most often fixed with a rigid frame.

**Cornice:** Any molded projection which crowns or finishes the edge of a roof.

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

**Facade:** Typically, the front of a building; however, any building square on view is considered a facade (see definitions below).

**Facade, front:** Any facade with a main public entrance which faces one of the primary streets.

**Facade, rear:** Any facade without a public entry that does not face a public road.

**Facade, side:** Any facade without a public entry but facing a public street.

**Fenestration:** The organization of windows on a building wall.

**Massing:** The overall visual impact of a structure's volume; a combination of height and width and the relationship of the heights and widths of the building's components.

### Section 9.3.2. Primary Building Materials

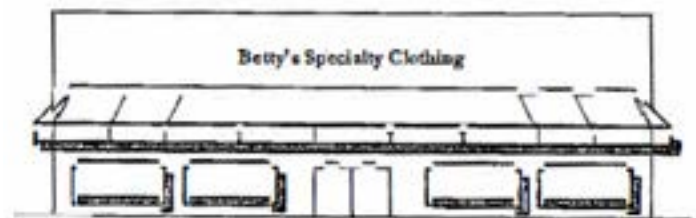
This section shall apply only to office, institutional, and commercial developments. On front facades or other building side visible from a public right-of-way, exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or prefabricated steel panels.

### Section 9.3.3. Prohibitions

The following types of external building materials are prohibited: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished walls, exposed plywood or particle board; and unplastered, exposed concrete masonry blocks. This provision also applies to accessory buildings and other structures, including signs.

### Section 9.3.4. Awnings and Canopies

The use of awnings on buildings are recommend but not required, so as to provide much needed protection from sun, wind, and rain, and to improve aesthetics of the building exterior. Awnings are encouraged for first floor retail uses to provide architectural interest and to encourage pedestrian activity. Where awnings are used, they shall be designed to coordinate with the design of the building and any other awnings along the same building facade.



**Encouraged:  
Shops Facing Street  
With Awnings and Storefront Windows  
Help Define Streetscape**

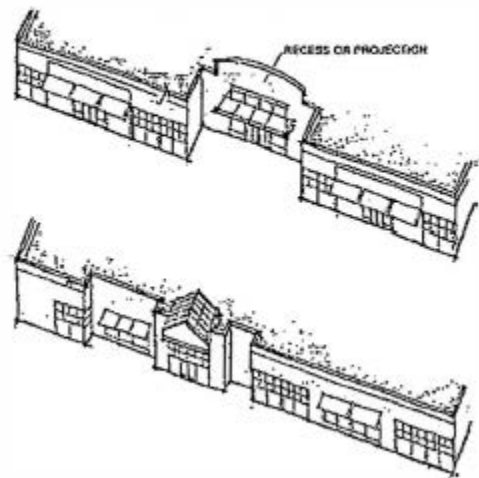
### Section 9.3.5. Building Facades

Lengthy, featureless facades and building walls must be avoided. Large, flat, blank expanses on a facade are not acceptable and shall not be permitted. The walls of buildings for office, institutional, commercial, and industrial use shall not extend more than 200 linear feet parallel to a street unless the front facade of the building is designed in a way that breaks up the building face into discrete architectural elements, which can be accomplished through the following:



- (a) Facade modulation: stepping back or extending forward a portion of the facade.
- (b) Providing bay windows or repeating window patterns at regular intervals.
- (c) Providing a porch, patio, deck, covered entry to portions of the facade at the ground level, or in the case of buildings containing two or more story, balconies.
- (d) Changing the roofline by alternating dormers, or using stepped roofs, gables, or other roof elements. Changing materials with the change in building plane.

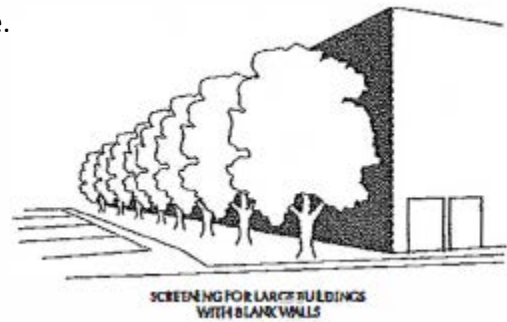
### Façade Modulation: Recesses and Projections



### Changes in Rooflines



- (e) Changing materials with the change in building plane.
- (f) Large, monotonous building walls should be screened with vegetation.



### Section 9.3.6. Building Accessories

This section shall apply to all office, institutional, commercial, and industrial developments. All vents, gutters, downspouts, flashing, electrical conduits, etc., shall be painted to match the color of the adjacent surface, unless they are being used expressly as a trim or accent element. Project elements such as storage areas, transformers, generators and similar features shall be sited in areas which are not visible from abutting public rights-of-ways or must be screened from such view.

### Section 9.3.7. Retaining Walls.

When retaining walls are required and will be visible from a public right-of-way, the height and length of said retaining walls shall be minimized and screened with appropriate landscaping. Tall, smooth faced concrete retaining walls are prohibited, and walls visible from the right-of-way shall be faced with wood, brick, stone, or other architectural treatment. See also Section 11.1.2 of this Land Use Management Code.

### **Section 9.3.8. Decorative Walls**

All walls or fences fifty (50) feet in length and located within a front yard shall be designed to minimize visual monotony through changes in plane, height, material or material texture, or through significant landscape massing. See also Section 11.1.2 of this Land Use Management Code.

### **Section 9.3. 9. Fencing**

Perimeter fencing, security fencing, or gateways shall be constructed of materials which are compatible with the design and materials used throughout the development project. Wood fences, razor wire or electric fencing are prohibited, and chain link fencing is prohibited except vinyl coated. See also Section 11.1.2 of this Land Use Management Code.

### **Section 9.3.10. Utility Undergrounding**

All individual utilities serving commercial and industrial developments shall be installed underground.

## CHAPTER 9.4

### OUTDOOR LIGHTING

Section 9.4.1.	Findings, Purpose, and Intent
Section 9.4.2.	Definitions
Section 9.4.3.	Applicability
Section 9.4.4.	Exemptions
Section 9.4.5.	Cut-off Fixtures Required
Section 9.4.6.	Glare
Section 9.4.7.	Intensity Specifications
Section 9.4.8.	Prohibitions
Section 9.4.9.	Lighting of Signs
Section 9.4.10.	Lighting Plans

#### Section 9.4.1. Findings, Purpose, and Intent

It is in the public interest to provide a quality night-time environment. Careless use of outdoor lighting damages the aesthetics of the night-time environment. If not regulated, outdoor lighting can decrease security or safety or create hazards through glare, light trespass, and distraction. Inappropriately shielded lights and over lighting can compromise the public's visibility. For instance, service station canopies and convenience store lighting can approach 25 or more footcandles, which is considered to be more than necessary to provide acceptable illumination and avoid liability risks. The naturally dark, star-filled sky is an important part of the natural environment that should not be degraded by improper or inappropriate outdoor lighting. Regulating outdoor lighting brings substantial public benefits. Eliminating glare improves visibility. Elimination of wasted light saves money, energy, and resources. This Chapter is intended to reduce the problems created by improperly designed and installed outdoor lighting. The regulations of this Chapter are intended to eliminate problems of glare, minimize light trespass with provisions designed to avoid unnecessary direct light from shining onto abutting properties or streets, enhance visibility and safety (especially for the aging eye), protect the natural nighttime sky, conserve energy, and to avoid light encroachment on wildlife habitats.

#### Section 9.4.2. Definitions

**Direct light:** Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the retractor or diffuser lens, of a luminaire.

**Fixture:** The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

**Footcandle:** A unit of illuminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot. One footcandle (FC) is the equivalent of 10.76 Lux (1 Lux= 0.0929 FC).

**Full cutoff luminaire:** Outdoor light fixtures shielded or constructed so that no direct light rays are emitted by the installed fixture at angles above the horizontal plane.

**Glare:** Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness, or that causes annoyance or discomfort.

**Illuminance:** The area density of the luminous flux incident at a point on the surface. It is a measure of light incident on a surface, expressed in lux or footcandles.

**Isofootcandle plan:** A site plan of a proposed development showing proposed outdoor illuminance with a series of isofootcandle lines that join points on a surface where the illuminance is the same.

**Light trespass:** The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

**Luminaire:** A complete lighting system, including a lamp or lamps and a fixture. This term shall be interpreted broadly as applying to all outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement.

**Outdoor lighting:** The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

**Safety lighting:** Exterior lighting that involves ensuring proper levels of illumination to provide safe working conditions, safe passage, and the identification of outdoor hazards.

**Security lighting:** Exterior lighting installed solely to enhance the security of people and property.

**Wallpack:** A wall-mounted luminaire.

### **Section 9.4.3. Applicability**

All public and private outdoor lighting installed in the Town shall be in conformance with the requirements established by this Chapter.

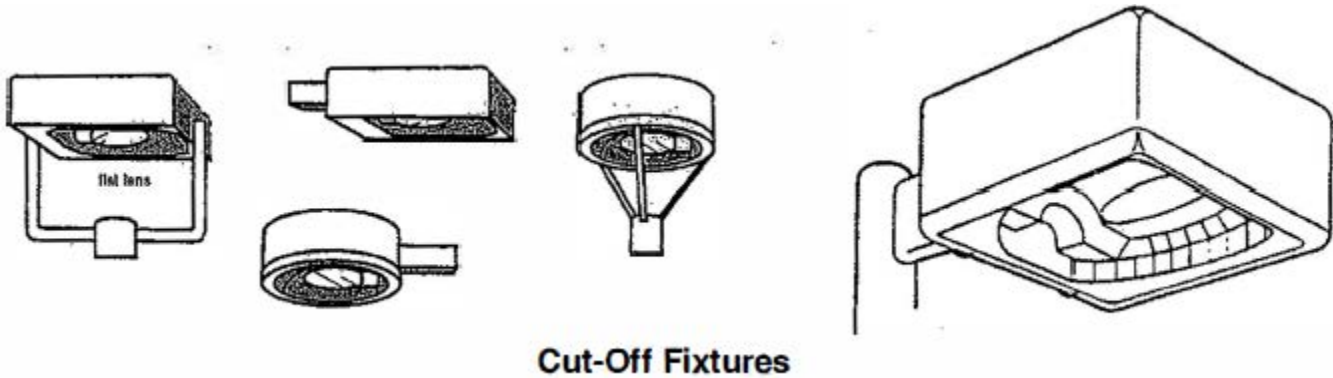
### **Section 9.4.4. Exemptions**

The following shall be exempt from the provisions of this Chapter:

- (a) All temporary emergency lighting needed by police or fire departments or other emergency services.
- (b) All hazard warning luminaires required by federal regulatory agencies.
- (c) All vehicular luminaires.
- (d) Safety lighting, as defined in this Chapter.
- (e) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.
- (f) Holiday lights and decorations using typical unshielded low-wattage incandescent lamps, provided that they are removed within 30 days following the holiday season to which they pertain.

### Section 9.4.5. Cut-off Fixtures Required

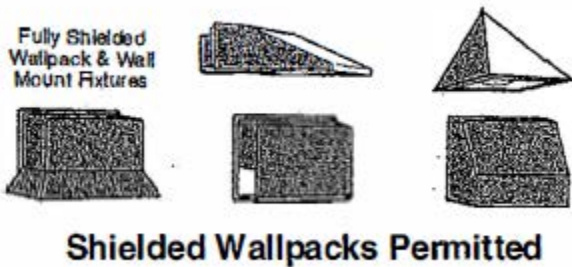
All luminaires not exempted from this Chapter installed for outdoor lighting shall be full cutoff luminaires, as defined by this Chapter, or another luminaire which does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire. This provision shall not apply to internally illuminated signs where permitted (see Chapter 17.2 for definition).

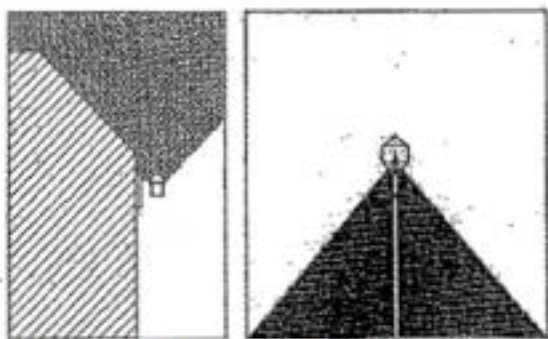


Security lighting, as defined in this Chapter, unless activated by motion sensor devices, shall also meet this requirement.

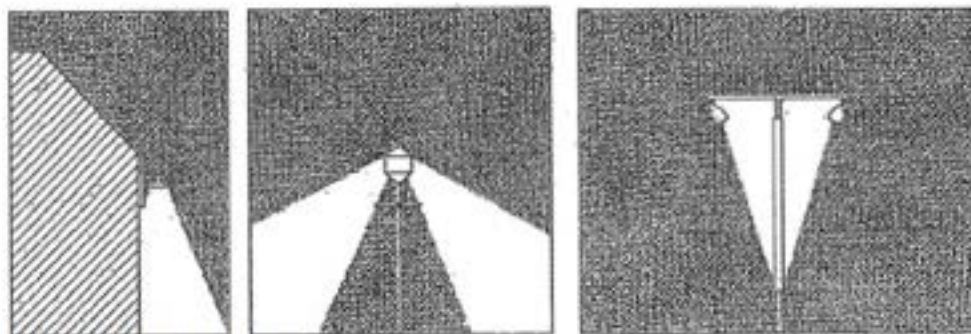


Wallpacks, as defined in this Chapter, are not permitted unless fully shielded.





**NOT ALLOWED**



**REQUIRED**

**(Cut-off above horizontal plane)**

#### **Section 9.4.6. Glare**

Any luminaire that is aimed, directed, or focused so that the lamp is visible, or in a way that causes direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or that creates glare perceptible to persons operating motor vehicles on public ways, shall be redirected or its light output controlled as necessary to eliminate such conditions.

#### **Section 9.4.7. Intensity Specifications**

Illuminance levels for outdoor lighting fixtures shall comply in design and upon installation with the standards in Table 9.4.1, measured at three feet above the ground or finished grade. Lighting for athletic fields in urban/suburban areas shall be exempt from this Section.



**TABLE 9.4.1  
OUTDOOR LIGHTING REGULATIONS**

<b>At Property Lines Including Right-of Way</b>	<b>Minimum Footcandles</b>	<b>Maximum Footcandles</b>
At property line abutting a residential use	None	0.5
At property line abutting an office or institutional use	None	1.0
At property line abutting a commercial or light industrial use	None	1.5

<b>Off-Street Parking Lots</b>	<b>Minimum Footcandle</b>	<b>Average Footcandle</b>	<b>Maximum Footcandle</b>
Residential areas	0.5	2	4
Office-institutional areas	1.0	3	6
Commercial areas	2.0	6	12
Light industrial areas	1.0	4	8

#### **Section 9.4.8. Prohibitions**

Strobe lights, and laser lights or searchlight beams projected into the sky, shall be prohibited.

#### **Section 9.4.9. Lighting of Signs**

See Section 17.5.2 of this Land Use Management Code for electrical permit requirements. See Section 17.6.8 of this Land Use Management Code for additional regulations on the lighting of signs.

#### **Section 9.4.10. Lighting Plans**

See Section 11.2.1 of this Land Use Management Code, which provides that the Zoning Administrator may require a lighting plan for community recreational facilities. See Section 11.6.5 of this Land Use Management Code regarding lighting of golf driving ranges. Also see Sections 11.6.1 and Section 11.6.3 of this Land Use Management Code regarding lighting of automobile service establishments and outdoor commercial recreation facilities, respectively.

## CHAPTER 9.5

### NOISE

Section 9.5.1.	Applicability
Section 9.5.2.	Definitions
Section 9.5.3.	Noise Disturbance Prohibited
Section 9.5.4.	Measurement of Sound
Section 9.5.5.	Noise Performance Standards
Section 9.5.6.	Exemptions

#### Section 9.5.1. Applicability

This chapter shall apply to all development and areas of the Town.

#### Section 9.5.2. Definitions

**Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance:** Any sound which endangers or injures the safety or health of humans or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

**Sound level:** The intensity of sound, measured in decibels, produced by an operation or use.

**Sound level meter:** An instrument designed to measure sound pressure levels and constructed in accordance with the requirements for General Purpose Sound Level Meters published by the American National Standards Institute.

#### Section 9.5.3. Noise Disturbance Prohibited

No person shall unnecessarily make, continue, or cause to be made or continued any noise disturbance.

#### Section 9.5.4. Measurement of Sound

Sound levels shall be measured with a sound level meter. Noises capable of being measured shall be those that cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels.

#### Section 9.5.5. Noise Performance Standards

At no point on the boundary of property shall the sound pressure level of any operation exceed the decibel levels shown in Table 9.5.1 below:

**TABLE 9.5.1**  
**NOISE PERFORMANCE STANDARDS**

<b>Receiving Land Use Category</b>	<b>Noise Level (dB A)</b>	
	<b>10:00 p.m. to 7:00 a.m.</b>	<b>7:00 a.m. to 10:00 p.m.</b>
All residential	45	60
Commercial	60	65
Industry	70	70

#### **Section 9.5.6. Exemptions**

The following activities or sources are exempt from the noise standards of this Chapter.

- (a) Emergency signaling devices, domestic power tools, air conditioning equipment, operating motor vehicles, and refuse collection vehicles.
- (b) The unamplified human voice.
- (c) Railway locomotives and cars.
- (d) Normal sounds of reasonably cared for agricultural or domestic animals, and the sounds of necessary farming equipment for a bona fide agricultural operation.
- (e) Bells or chimes of churches or other places of worship.

## **ARTICLE 10**

### **OVERLAY DISTRICT REGULATIONS**

#### **CHAPTER 10.1                      HISTORIC DISTRICTS**

#### **CHAPTER 10.1**

##### **HISTORIC DISTRICT**

Section 10.1.1.	Purpose and Intent
Section 10.1.2.	Definitions
Section 10.1.3.	Historic Districts
Section 10.1.4.	Boundaries of Historic Districts
Section 10.1.5.	Amendments to Historic District Boundaries
Section 10.1.6.	Criteria for Establishing Historic Districts
Section 10.1.7.	Criteria for Designation of Historic Properties
Section 10.1.8.	Certificate of Appropriateness Required
Section 10.1.9.	Incorporation Clause

##### **Section 10.1.1. Purpose and Intent**

The historical, architectural, cultural, and aesthetic heritage of Maysville is among the Town's most valued and important assets. Protection of that heritage is essential to the promotion of the health, prosperity, and general welfare of the Town, county, region, state, and nation. The purpose of the historic district and accompanying regulations is to safeguard the heritage of Maysville by preserving the Town's historic and architecturally worthy properties, areas, buildings, structures, monuments, streetscapes, squares, landscapes, archaeology, and neighborhoods. This Chapter requires certificates of appropriateness so that these purposes can be achieved.

##### **Section 10.1.2. Definitions**

**Certificate of Appropriateness:** A document evidencing approval by the Maysville Governing Body 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.

**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 of the Town.

**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 with jurisdiction.

##### **Section 10.1.3. Historic Districts**

The historic districts shall be designated by ordinance adopted by Maysville's Governing Body pursuant to the provisions of O.C.G.A. Section 44-10-26 (the Georgia Historic Preservation Act-Acts 1980, pages 1723-1729) Additional historic districts may be designated pursuant to this Chapter. Existing historic districts may be amended pursuant to this Chapter.

#### **Section 10.1.4. Boundaries of Historic Districts**

The boundaries of the various historic districts shall include those properties approved Maysville Historic Preservation Commission and designated by ordinance adopted by Maysville's Governing Body pursuant to the provisions of O.C.G.A. Section 44-10-26 (the Georgia Historic Preservation Act -Acts 1980, pages 1723-1729). The boundaries of the historic districts shall be shown on the Official Zoning Map or, if more expedient, on a separate map or maps of the Town referenced and adopted in Chapter 3.3 of this ordinance.

#### **Section 10.1.5. Amendments to Historic District Boundaries**

The Historic Districts shall not be created or amended, except in conformance with the provisions of this section and O.C.G.A. Section 44-10-26 as applicable. No ordinance amending the boundaries of a historic district shall be adopted until the following procedural steps have been taken:

- (a) The Historic Preservation Commission shall make or cause to be made an investigation and shall report on the historic, cultural, architectural, or esthetic significance of each place, district, site, building, structure, or work of art proposed for inclusion in the historic district. This report shall be submitted to the Office or Division of Historic Preservation of the Georgia Department of Natural Resources or its successor which will be allowed thirty (30) days to prepare written comments concerning the report;
- (b) The Historic Preservation Commission and the Town's Governing Body shall hold a public hearing on the proposed historic properties overlay district. Notice of the hearing shall be published at least three times in the principal newspaper of general circulation within the city, and written notice of the hearing shall be mailed by the Historic Preservation Commission to all owners and occupants of such properties. All the notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearing;
- (c) Following the public hearing, the Governing Body may adopt the District as prepared, adopt it with changes it deems necessary, or reject it;
- (d) Within thirty (30) days immediately following the adoption of to the historic district or amendment, the owners and occupants of each property and the owners and occupants of each structure, site, or work of art located within the area added to the historic district shall be given written notification of such inclusion within the historic district, which notice shall apprise said owners and occupants of the necessity for obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property included within the historic district.

#### **Section 10.1.6. Criteria for Establishing Historic Districts**

The Historic Preservation Commission may recommend as a historic district any geographically definable area which contains structures, sites, works of art, or a combination thereof, which:

- (a) Has special character or special historic/aesthetic value or interest;
- (b) Represents one or more periods or styles of architecture typical of one or more eras in the history of the Town, Jackson or Banks County, state or region; or
- (c) Causes such area, by reason of such factors, to constitute a visibly perceptible section of the Town or either county.

#### **Section 10.1.7. Criteria for Designation of Historic Properties**

The Historic Preservation Commission may recommend, and the Governing Body may designate through ordinance adoption as a historic property any 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, the counties, the 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, the counties, the State of Georgia, or the region.

#### **Section 10.1.8. Certificate of Appropriateness Required**

After the designation by ordinance of an historic property or of an historic district, no material change in the appearance of such historic property, or of a structure, site, or work of art within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission in accordance with Article 19 of this Land Use Management Code. This provision shall also be required for signs regulated pursuant to Article 17, "Signs," of this Land Use Management Code.

#### **Section 10.1.9. 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.



## **ARTICLE 11**

### **SPECIFIC USE PROVISIONS**

CHAPTER 11.1	GENERAL ACCESSORY USE REGULATIONS
CHAPTER 11.2	PRINCIPAL RESIDENTIAL USES
CHAPTER 11.3	ACCESSORY RESIDENTIAL USES
CHAPTER 11.4	HOME OCCUPATIONS
CHAPTER 11.5	INSTITUTIONAL USES
CHAPTER 11.6	PRINCIPAL COMMERCIAL USES
CHAPTER 11.7	ACCESSORY COMMERCIAL USES
CHAPTER 11.8	TEMPORARY USES
CHAPTER 11.9	TOWERS AND WIRELESS SERVICE FACILITIES
CHAPTER 11.10	OTHER USES
CHAPTER 11.11	ADULT BUSINESSES

### **CHAPTER 11.1**

#### **GENERAL ACCESSORY USE REGULATIONS**

Section 11.1.1.	Accessory Use or Structure
Section 11.1.2.	Fences and Walls
Section 11.1.3.	Junked Vehicle or Material
Section 11.1.4.	Accessory Uses of Parking Lots and Loading Areas

#### **Section 11.1.1. Accessory Use or Structure**

- (a) Accessory uses shall be located in a rear yard or side yard.
- (b) No accessory-building; structure; or use shall be erected on a lot until construction of the principal building or establishment of principal use has commenced. Accessory buildings and structures must be constructed in conjunction with, or after, a building permit for the principal building is lawfully approved or use is established.
- (c) When an accessory building is attached to a principal building by a breezeway, passageway, or similar means, the accessory building shall be considered part of the principal building and shall comply with the yard requirements for a principal building.

#### **Section 11.1.2. Fences and Walls**

- (a) **Height** - If a fence or freestanding wall, other than a retaining wall or necessary fencing encompassing a tennis court is to be placed in a required yard, it shall be no more than eight (8) feet in height. Fences or freestanding walls constructed in a front yard of a residential lot shall not exceed four (4) feet in height; provided, however, that this shall not apply to subdivision or project identification monuments at the entrance to a subdivision or development and wall or fence extensions thereof, where permitted, which shall not exceed eight (8) feet in height and columns shall not exceed ten (10) feet in height.

- (b) **Composition** - Walls composed or constructed of exposed concrete block, tires, junk, or other discarded materials shall not be permitted. In all residential zoning districts, fences or walls erected within the required front yard shall be decorative and constructed of brick, stone, wood, stucco, wrought iron, or split rail; provided, however, that this shall not preclude wire fences (e.g., chain link, or barbed wire) within a required front yard, when a residential property contains a minimum of two (2) acres.
- (c) **Location** - No fence or wall shall be constructed within one (1) foot of a public right-of-way.

These requirements shall not apply to temporary fencing erected around a lot during construction of a building for security or safety or code compliance reasons. All such temporary fencing shall be approved by the Building Inspector upon issuance of a building permit and shall be removed upon completion of construction. See also Section 9.3.10 of this Land Use Management Code for provisions regulating fencing.

### **Section 11.1.3. Junked Vehicle or Material**

Except for junk/salvage yards and wrecked motor vehicle compounds as may be permitted by this Land Use Management Code, it shall be unlawful to park or continuously store abandoned, wrecked, junked or inoperable vehicles without current tags, power-driven construction equipment, used lumber or metal, used appliances, or any other miscellaneous scrap material in quantity that is visible from a public street or adjacent or abutting property. No such storage shall be allowed in front yards. Appropriate screening as determined by the Zoning Administrator, based upon the elevations and uses of surrounding properties, may be used to comply with this provision in side and rear yards.

- (a) **Trash:** It shall be unlawful to maintain real property upon which trash, garbage, refuse, scrap building materials, paper, cardboard, brick, cement, rubbish, tree residue, cans, or containers are permitted or caused to accumulate in any manner. Any such trash, garbage, or miscellaneous refuse which remains on the property more than 7 days shall be deemed to be a nuisance and a violation of this Land Use Management Code. Any garbage, trash, or miscellaneous refuse not kept and maintained in proper receptacles shall also be considered a violation of this Land Use Management Code.

### **Section 11.1.4. Accessory Uses of Parking Lots and Loading Areas**

- (a) Parking and loading areas shall not be used for the repair or dismantling of any vehicle, equipment, materials, or supplies.
- (b) Parking and loading areas shall not be used to store vehicles for sale, except in cases where the property owner owns the vehicle(s), provided auto sales is a - permitted Use in the district in which the property is located. This provision shall not apply to the placing of a "For Sale" sign on or in one licensed vehicle, boat, or other vehicle located in a private residential driveway and which licensed vehicle, boat, or other vehicle is owned by an occupant of said private residence.
- (c) An attendant's shelter building which does not contain more than fifty (50) square feet of gross floor area and which is set a distance of not less than twenty (20) feet from any boundary of the parking lot may be permitted.
- (d) See also Chapter 12.2 of this Land Use Management Code for additional restrictions.

## CHAPTER 11.2 PRINCIPAL RESIDENTIAL USES

Section 11.2.1.	Community Recreation as Principal Use
Section 11.2.2.	Dwelling Occupancy Generally
Section 11.2.3.	Dwellings, Single-Family and Two-Family, and Manufactured Homes
Section 11.2.4.	Dwelling, Single-Family Attached (Townhouses)
Section 11.2.5.	Dwelling, Two-Family (Duplex)
Section 11.2.6.	Mobile Home
Section 11.2. 7.	Multi-Family Development

### Section 11.2.1. Community Recreation as Principal Use

Within a residential subdivision or multiple-family residential development, community recreation as defined by this Land Use Management Code shall be subject to the following:

- (a) **Exterior lighting:** If lighted, exterior lighting proposed for a building, swimming pool, tennis courts, or other structure or use shall comply with Chapter 9.4, "Outdoor Lighting," of this Land Use Management Code. The Zoning Administrator may require a lighting plan be submitted and approved prior to the installation of outdoor lighting to ensure compliance with said paragraph and Chapter 9.4.
- (b) **Swimming pools and tennis courts:** Swimming pools and tennis courts shall be setback a minimum of twenty-five (25) feet from all property lines of the tract of land devoted to community recreation, with a minimum ten (10) foot wide landscape strip along any side or rear property line of said tract.
- (c) **Building:** Buildings shall be setback a minimum of twenty-five (25) feet from the property line of the tract. If outdoor patio or decks are provided, they shall be located no closer than twenty-five (25) feet from the property line of the tract and a minimum ten (10) foot wide landscape strip shall be provided between said outdoor-patio-or deck and the property line or boundary of said tract.
- (d) **Parking:** Parking shall be provided per the requirements of Article 12 of this Land Use Management Code.

### Section 11.2.2. Dwelling Occupancy Generally

No dwelling unit shall be occupied that does not have at least 300 square feet of gross floor area per adult occupant.

### Section 11.2.3. Dwellings, Single-Family and Two-Family, and Manufactured Homes

This Section establishes requirements for detached single-family dwellings, including site-built, modular, industrialized housing, duplexes, and manufactured homes.

- (a) **Foundation** - The building shall be attached to a permanent foundation constructed in accordance with the Building Code or state and federal regulations, as applicable. The area beneath the ground floor of the dwelling shall be either a slab foundation or enclosed around the exterior of the building with a foundation wall or non-loadbearing wall constructed of masonry (stone or brick), cast in place concrete, or concrete block finished with stucco or similar architectural treatment, penetrated by openings only for ventilation and access.
- (b) **Tie-Downs** - Each manufactured home shall have tie-downs or other devices securing the stability of the manufactured home and shall be installed in accordance with the requirements of the manufacturer and the regulations of the Georgia Safety Fire Commissioner.
- (c) **Code Compliance**- The dwelling shall be constructed in accordance with all applicable requirements of the Building Code as adopted by or as applies in the Town, or in accordance with the standards established by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.), or in accordance with state law and regulations for industrialized buildings, whichever applies.

### Section 11.2.4. Dwelling, Single-Family Attached (Townhouses)

In zoning districts where permitted, fee simple townhouses shall meet the following requirements:

- (a) Each platted lot shall have a minimum of twenty (20) feet of frontage on a public street or private road that meets public street standards of the Town.
- (b) The minimum lot size shall be 2,000 square feet.
- (c) Zero lot line between units within the same building shall be permitted, subject to applicable fire and building codes.
- (d) To avoid a monotonous appearance, for any given building, no more than six (6) units may have common walls. Any building containing more than three (3) units with common walls must have the roof of each attached unit distinct from the other through separation or offsets in roof design.
- (e) Each townhouse development or phase thereof shall require subdivision plat approval in accordance with Article 26; "Subdivisions and Land Development," of this Land Use Management Code.

### **Section 11.2.5. Dwelling, Two-Family (Duplex)**

Property containing a two-family dwelling may be subdivided in a manner so that each dwelling unit is located on its own lot, with zero lot line in between the units, subject to compliance with applicable building codes and subject to compliance with Article 26, "Subdivisions and Land Development," of this Land Use Management Code.

### **Section 11.2.6. Mobile Home**

A mobile home as defined in this Land Use Management Code (i.e., manufactured prior to June 15, 1976) is not permitted in any zoning district.

### **Section 11.2.7. Multi-Family Development**

Any development containing one or more multi-family dwellings shall comply with the following provisions:

- (a) **Condominiums** - If a condominium form of ownership is proposed, the development shall meet all applicable state laws including the Georgia Condominium Act (O.C.G.A. 44-3-70 et. seq.). Proposed bylaws and the articles of incorporation for the condominium association shall be submitted with the application for development approval.
- (b) **Amenities** - All developments containing fifty (50) or more dwelling units shall have a clubhouse, swimming pool, and tennis court(s). The size of the swimming pool shall be a minimum of 800 square feet of water surface.
- (c) **Laundry facilities** - On-site principal or accessory laundry facilities are permitted accessory uses for developments with 25 or more units provided they are not visible from a public road or any adjoining property.

## CHAPTER 11.3 ACCESSORY RESIDENTIAL USES

Section 11.3.1.	Generally
Section 11.3.2.	Accessory Apartment, Detached or Attached
Section 11.3.3.	Manufactured Home While Principal Use is Constructed
Section 11.3.5.	Parking or Storage of Recreational Vehicles
Section 11.3.6.	Swimming Pool
Section 11.3.7.	Yard Sales

### Section 11.3.1. Generally

Customary residential accessory buildings and uses are permitted in residential zoning districts, subject to permitted use provisions for the zoning district in which the property is located, and provided they meet the following requirements:

- (a) Accessory uses, buildings, and structures shall be located in a rear yard or side yard.
- (b) Accessory buildings shall not exceed two stories or twenty-four (24) feet in height.
- (c) Accessory building setbacks are those specified in respective tables for the particular zoning.
- (d) In no case shall an accessory building or structure exceed the square footage of the principal building or structure to which it is accessory.
- (e) Accessory buildings, structures, and uses are subject to the provisions of Section 11.1.1 of this Article.
- (f) Semi-trailers shall not be used as accessory buildings or for storage in any residential zoning district.
- (g) No storage trailer shall be used as a temporary or permanent accessory structure in any residential zoning district.
- (h) In residential zoning districts, shipping containers used as an accessory structure must have exterior walls covered with siding materials that are typical of siding materials used for storage sheds and garages.
- (i) **Shipping container definition:** a standardized steel box used for storage and movement of materials and products within a freight transport system.



### **Section 11.3.2 Accessory Apartment, Detached or Attached**

In zoning districts where permitted, accessory apartments shall meet the following requirements:

- (a) Only one accessory apartment shall be permitted on a lot.
- (b) One additional off-street parking space is required and shall be provided, which must be located in a side or rear yard.
- (c) At least three hundred (300) square feet of heated floor area shall be provided per adult occupant. The heated floor area for an accessory apartment shall be at least 300 square feet and shall not exceed 900 square feet or the size of the principal dwelling, whichever is less.
- (d) The entrance to an accessory apartment shall be from a rear or side yard and shall not face the street to which the principal dwelling is oriented.
- (e) Accessory apartments, whether attached or detached, shall have exterior finishes or architectural treatments (e.g., brick, wood, stucco, etc.) of an appearance substantially similar to those on the principal dwelling.
- (f) The applicable County Health Department must certify that existing or proposed water, sanitary sewer, and/or septic tank facilities are adequate to serve both the principal dwelling and the accessory apartment.
- (g) Either the accessory apartment or the principal dwelling unit shall be owner-occupied.

### **Section 11.3.3. Manufactured Home While Single-Family Dwelling is Constructed**

Upon application, a manufactured home may be installed on a lot where a building permit has been issued for a detached single-family dwelling, subject to the following requirements:

- (a) **Approval by Planning Commission** - The application is approved by the Town Planning Commission.
- (b) **Approved Septic System** - The manufactured home shall be connected to a public sanitary sewer or septic system with capacity available as approved by the applicable County Health Department.
- (c) **Setbacks** - The manufactured home meets the minimum required setbacks for principal buildings for the zoning district in which it is located.
- (d) **Removal** - The manufactured home shall be temporary, not to exceed one (1) year. It shall be unlawful for another person to occupy a manufactured home pursuant to this Section except as approved under the original terms of approval. The manufactured home shall not be rented. The Zoning Administrator shall order the removal of the manufactured home upon issuance of a certificate of occupancy for the permanent dwelling, and the owner of real property shall remove the manufactured home from the lot prior to the issuance of a certificate of occupancy.

#### **Section 11.3.4. Parking or Storage of Recreational Vehicles**

In residential zoning districts, recreational equipment such as boats, boat trailers, travel trailers, recreational vehicles, pick-up campers or coaches, motorized dwellings, motor coaches, tent trailers and other similar vehicles may be parked or stored only in established areas in side yards, rear yards, carports, or in an enclosed building, provided however, that such equipment may be parked or stored anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading and unloading. Parking or storage of such recreational equipment or vehicles shall not take place on any vacant residential lot.

#### **Section 11.3.5. Swimming Pool**

All swimming pools shall be located at least twenty-five (25) feet from all property lines. Swimming pools must be enclosed by a fence or wall at least four (4) feet in height.

#### **Section 11.3.6. Yard Sales**

Yard sales, where permitted, shall not exceed seventy-two (72) hours for each yard sale. A yard sale on a particular property shall not occur more frequently than two per month. All items shall be taken indoors at the end of each day.

## **CHAPTER 11.4 HOME OCCUPATIONS**

Section 11.4.1.	General Provisions
Section 11.4.2.	Alterations to the Dwelling
Section 11.4.3.	Vehicles and Parking
Section 11.4.4.	Equipment, Off-site Impacts, and Nuisances
Section 11.4.5.	Signs Restricted
Section 11.4.6.	Employees and Licenses
Section 11.4.7.	Display, Stock-in-Trade, Sales, and Storage
Section 11.4.8.	Uses Specifically Prohibited
Section 11.4.9.	Approval
Section 11.4.10.	Modifications by Conditional Use Permit

### **Section 11.4.1. General Provisions**

Home occupations may be established in a dwelling as provided in permitted uses requirements for the zoning districts established by this Land Use Management Code. No more than one home occupation may be established in a single dwelling. In districts where permitted, the following regulations shall apply to home occupations. Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration.

### **Section 11.4.2. Alterations to the Dwelling**

The exterior appearance of the dwelling must remain that of a dwelling. No internal or external alterations inconsistent with the residential use of the building may be permitted.

### **Section 11.4.3. Vehicles and Parking**

Vehicles kept on site in association with the home occupation shall be used by residents only, except for the parking of employees as may be permitted by this Chapter. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation. Incoming vehicles related to the home occupation, if any, shall at all times be parked off-street within the confines of the residential driveway or other on-site permitted parking. The transporting of goods by truck in connection with a home occupation is prohibited.

### **Section 11.4.4. Equipment, Off-site Impacts, and Nuisances**

No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. No equipment that interferes with radio and/or television reception shall be allowed. Home occupations must exclude the use of machinery or equipment that emits sound (e.g., saws, drills, musical instruments, etc.) that is detectable beyond the property. Chemical, electrical, or mechanical equipment that is not normally a part of domestic or household equipment and which is used primarily for commercial purposes shall not be permitted.

#### **Section 11.4.5. Signs Restricted**

There shall be no signs permitted in conjunction with a home occupation larger than twelve square feet, although this shall not preclude the property owner from erecting signs permitted on the lot pursuant to other provisions of this Land Use Management Code.

#### **Section 11.4.6. Employees and Licenses**

Only occupants of the dwelling and one (1) additional full-time employee or two (2) part-time employees shall be authorized to work on the premises in connection with a home occupation. Any occupational licenses, including business registrations, required by state or city regulations must be obtained. Proof of state registration, if required for the home occupation, shall be submitted to the Zoning Administrator prior to the issuance of a business registration.

#### **Section 11.4.7. Display, Stock-in-Trade, Sales, and Storage**

There shall not be any activity associated with the home occupation visible outside the dwelling other than deliveries and shipments.

#### **Section 11.4.8. Uses Specifically Prohibited**

The following uses are specifically prohibited as home occupations: auto sales or auto repair; restaurants; animal hospitals, veterinary clinics, kennels, or the keeping of animals; funeral homes; machine shops; and lodging services.

#### **Section 11.4.9. Approval**

All home occupations shall be subject to the Zoning Administrator's approval. The applicant for a business registration shall file for approval from the Zoning Administrator on forms provided by the Zoning Administrator. Additional information, including a plot plan of the lot on which a home occupation is proposed, may be required by the Zoning Administrator, along with information describing the nature of the home occupation.

#### **Section 11.4.10. Modifications by Conditional Use Permit**

The provisions of this Chapter may be modified or varied pursuant to application by the property owner for a conditional use, according to procedures specified in Chapter 21.2 of this Land Use Management Code.

## **CHAPTER 11.5 INSTITUTIONAL USES**

Section 11.5.1.	Church
Section 11.5.2.	Continuing Care Retirement Community
Section 11.5.3.	Institutional Residential Living and Care Facilities

### **Section 11.5.1. Church**

In districts where permitted, churches and their customary accessory buildings shall be set back a minimum of fifty (50) feet from any property line, and within the fifty-foot setback required alongside and rear property lines, a minimum twenty-five (25) foot wide natural buffer shall be provided.

Acceptable accessory uses include but are not limited to, a residence for the housing of the pastor, priest, minister, rabbi, etc., school buildings and temporary classrooms, gymnasiums, and community meeting rooms. In commercial districts, a community food or housing shelter may be operated as an accessory use to a church.

When located in a residential zoning district, no church shall be permitted to establish a day care center, or provide lighted outdoor recreation facilities, without a conditional use permit approved by the Governing Body.

### **Section 11.5.2. Continuing Care Retirement Community**

In districts where permitted, continuing care retirement communities shall be subject to the following restrictions:

- (a) The facility may have on site as a part of its development the following accessory uses for use of residents and their guests only: Full-service kitchen for meals, exercise facilities, swimming pools, tubs and spas, administrative offices, hospital width corridors and doors, nursing stations, treatment rooms, emergency paging systems, indoor and outdoor recreational facilities, handicap-assisted restrooms, hair salons, computer facilities, game and card rooms, chapel, movie theaters, wellness centers, billiard rooms, restaurant facilities, common areas, libraries, dining rooms, mail rooms, housekeeping and storage areas, laundry facilities, and gift shops.
- (b) Independent living units shall contain a minimum of 650 square feet of area.
- (c) Maximum building coverage shall be limited to forty (40) percent.
- (d) The minimum lot size for a development shall be five (5) acres.
- (e) All principal and accessory buildings shall be setback a minimum of fifty (50) feet from all side and rear property lines and a 25-foot-wide natural buffer shall be provided.
- (f) The facility shall meet all applicable requirements of the State of Georgia applicable fire codes.

### **Section 11.5.3. Institutional Residential Living and Care Facilities**

In districts where permitted, institutional residential living and care facilities shall meet the requirements of the State Board of Health and applicable rules of the State Department of Human Resources. Plans for any such facilities must receive approval from the applicable county health department and state fire marshal's office prior to issuance of a permit for construction and operation. Proof of compliance with such requirements shall be required to be on file with the town prior to business registration approval.

## **CHAPTER 11.6**

### **PRINCIPAL COMMERCIAL USES**

Section 11.6.1.	Automobile Sales Establishment
Section 11.6.2.	Bed and Breakfast Inn
Section 11.6.3.	Commercial Recreational Facility, Outdoor
Section 11.6.4.	Day Care Center
Section 11.6.5.	Golf Driving Range
Section 11.6.6.	Outparcel Development
Section 11.6.7.	Self-Service Storage Facility (Mini-Warehouses)
Section 11.6.8.	Service and Fuel Filling Station
Section 11.6.9.	Truck Stop

#### **Section 11.6.1. Automobile Sales Establishment**

Establishments that sell, rent, or lease automobiles must provide parking specifically identified and devoted to customers. Adequate space must be allocated, specifically identified, and reserved on the site for the unloading of vehicles brought to the site by car carriers. It shall be a violation to park vehicles for sale, rent, or lease in customer parking or unloading areas. Outside loudspeakers shall not be permitted when abutting a residential zoning district (see also Chapter 9.5 of this Land Use Management Code).

When abutting a residential zoning district, automobile sales establishments require submittal and approval by the Zoning Administrator of a photometric plan for lighting demonstrating compliance with the requirements of Chapter 9.4, "Outdoor Lighting" of this Land Use Management Code. Establishments that will not operate during darkness shall not be required to submit a photometric plan.

#### **Section 11.6.2. Bed and Breakfast Inn**

In districts where permitted, bed and breakfast inns shall be limited to a maximum of six (6) guest rooms.

#### **Section 11.6.3. Commercial Recreation Facility. Outdoor**

Outdoor commercial recreational facilities are typically accompanied by substantial off-site impacts. Such uses require a minimum lot area of two acres, a minimum building setback of one hundred (100) feet, and a natural undisturbed buffer replanted where sparsely vegetated of at least fifty (50) feet adjacent to side and rear property lines. Uses that propose night lighting other than incidental security lighting shall be required to submit a photometric plan to enable the evaluation of impacts from illumination (see Chapter 9.4 of this Land Use Management Code). A written evaluation of noise impacts is required at the time the following conditional uses are considered: stadiums and amphitheaters; such projects may be required to construct noise attenuation walls or otherwise address off-site noise impacts. Traffic impact statements are required for stadiums and amphitheaters.

#### **Section 11.6.4. Day Care Center**

In districts where permitted, day care centers shall have at least one hundred and fifty (150) square feet of outdoor play area and at least thirty-five (35) square feet of indoor space provided for each child or other person served. The outdoor play area shall be enclosed by a fence with a minimum height of four (4) feet. Adequate and safe areas for the drop-off and pick-up of patrons shall be provided.

#### **Section 11.6.5. Golf Driving Range**

- (a) The minimum lot area shall be ten acres or one acre per tee, whichever is greater.
- (b) Vehicular access shall be derived only from a collector or arterial street.
- (c) Loudspeakers/paging systems are prohibited when residential use or a residential zoning district abuts a driving range.
- (d) The hours of operation shall be limited to 8:00 a.m. to 11 :00 p.m.
- (e) The depth of a driving range along the driving area shall be at least 350 yards measured from the location of the tees, and the width shall be not less than 200 yards at a distance of 350 yards from the tees.
- (f) If proposed to be lit, a lighting plan demonstrating compliance with Chapter 9.4, "Outdoor Lighting" of this Land Use Management Code shall be required to be submitted to the Zoning Administrator for approval.

#### **Section 11.6.6. Outparcel Development**

In districts where permitted, when property is subdivided and used as a separate commercial, institutional, industrial; or other non-residential use, development on such outparcels -shall meet the following requirements: Access to and from all outparcels shall be from internal driveways or frontage roads with no direct access to the public right-of-way it abuts; and each outparcel shall have a minimum width of 200 feet abutting a public right-of-way.



### **Section 11.6.7. Self-Service Storage Facilities (Mini-Warehouse)**

- (a) Minimum and maximum development size - The minimum lot size for a mini-warehouse development shall be one acre, and the maximum developed area for a mini-warehouse shall be two acres.
- (b) Size and use of storage units - Individual storage units shall not exceed eight hundred (800) square feet in area and shall not be used for the storage of hazardous materials or toxic substances. The use of individual storage units for living, sales, or hobbies is prohibited.
- (c) Maximum building length - No individual mini-warehouse building shall be more than two hundred (200) feet long.
- (d) Fencing. Fencing adjacent to a public right-of-way shall be required in the form of an architecturally finished wall or solid, opaque fence. Fences placed on the remainder of the site may be chain-link. Also see Chapter 9.3 and Section 11.1.2 of this Land Use Management Code.
- (e) Hours of operation. Mini-warehouse developments shall not be accessible to the general public (excluding on-site managers) between the hours of midnight and 5:00 a.m.
- (f) No business shall be operated out of a mini warehouse.

### **Section 11.6.8. Service and Fuel Filling Station**

In zoning districts where permitted, service and fuel filling stations must have all fuel pumps located at least twenty-five (25) feet from any public right-of-way or lot line, and all buildings and accessory structures must be located at least one hundred (100) feet from any residential zoning district boundary. All fuel must be stored underground outside of any public right-of-way.

## **CHAPTER 11.7**

### **ACCESSORY COMMERCIAL USES**

Section 11.7.1.	Drive-Through Facilities
Section 11.7.2.	Manufacturing and Fabrication
Section 11.7.3.	Retail and Restaurant Uses Accessory to Office, Institution, or Lodging
Section 11.7.4.	Special Outdoor Event
Section 11.7.5.	Swimming Pools

#### **Section 11.7.1. Drive-Through Facilities**

When a drive-through operation is located adjacent to a residential zoning district or residential use and it involves an exterior loudspeaker, volumes must be monitored and controlled so as to minimize audible sound from the loudspeaker at the property line. Prior to operation, or to mitigate unwanted noise after commencement of a drive-through operation, the Zoning Administrator may require noise attenuation to be installed on the site with the exterior loudspeaker, if volumes cannot be reduced below those audible at the property line, or if buffers are inadequate to mitigate noise from the exterior loudspeaker.

#### **Section 11.7.2. Manufacturing and Fabrication**

If undertaken as an accessory use to a permitted retail use, manufacturing or fabrication activity is permitted, provided that it occupies no more than twenty-five (25) percent of the gross floor area devoted to the establishment, or 1,000 square feet, whichever is less. All products manufactured or fabricated on the premises must be sold on the premises when conducted accessory to a permitted retail use.

### **Section 11.7.3. Retail and Restaurant Uses Accessory to Office, Institution, or Lodging**

It is the intent of this Section to permit small-scale, accessory retail uses in office complexes and other uses with gross floor areas of 10,000 square feet or more, including without limitation, barber shops, beauty shops, dry cleaning, drug stores, book stores, florists, gift shops, convenience food stores, news stands, and cafeterias, sandwich shops, and restaurants, subject to the requirements of this Section. Retail sales and services accessory to the operation of an office complex, institutional use, or lodging facility with 10,000 or more gross square feet of floor area are permitted where otherwise not listed as a permitted use, subject to the requirements of this Section:

- (a) The activity must be conducted wholly within the building in which the principal use is located and shall be limited to 15 percent of the total gross floor area of the building. No merchandise shall be stored or displayed outside the structure in which the principal use is located.
- (b) The public entrance or entrances to the activity shall be from a lobby, hallway, or other interior portion of the structure in which the principal use is located, except for restaurants located within an office building or hotel which shall be permitted one exterior public entrance.

### **Section 11.7.4. Special Outdoor Event**

A special outdoor event may be authorized subject to permit approved by the Governing Body Administrator and in compliance with the following:

- (a) The duration of the event does not exceed 7 consecutive days.
- (b) Special outdoor events shall not take place more frequently than four (4) times in any calendar year on the same premise. Any two special outdoor events on the same premises must be separated by at least 30 consecutive days.

### **Section 11.7.5. Swimming Pools**

Swimming pools which are operated as an accessory use to hotels, motels, or other permitted commercial uses shall be restricted to use by the patrons/guests of the principal use on the subject property and shall not be opened to the general public for a fee.

## **CHAPTER 11.8 TEMPORARY USES**

Section 11.8.1.	Construction Field Office
Section 11.8.2.	Model Home or Temporary Sales Office for Subdivision
Section 11.8.3.	Temporary Classroom

### **Section 11.8.1. Construction Field Office**

Manufactured homes or other temporary buildings or structures shall not be occupied as a permanent office or for any other use in any district; provided, however that such manufactured homes or other temporary buildings or structures may be used for a temporary office or other permitted non-residential use, subject to the following:

- (a) Approval by the Zoning Administrator and issuance of a permit by the Building Inspector.
- (b) Said permit shall be temporary but renewable once after a period of six (6) months;
- (c) Said permit shall only be issued if plans and permit(s) have been approved for one or more permanent buildings on the subject property;
- (d) Adequate water and sewage disposal for the structure(s) is approved by the County Health Department; and
- (e) Said manufactured home(s) or temporary building or structure(s) shall be removed from the site no later than upon the occupancy of the appropriate permanent building(s) or structure(s) intended for such use.

### **Section 11.8.2. Model Home or Temporary Sales Office for Subdivision**

An applicant for final subdivision approval as required by Article 26 of this Land Use Management Code may apply for a building permit and may after securing a building permit erect a dwelling or install a temporary manufactured home to serve as a temporary sales office for the subdivision. If the building is developed as a model home (site-built dwelling), it shall be established on a lot shown on an approved preliminary plat and shall meet zoning district requirements for lot size, setbacks, etc. Upon completion of its use as a model home or temporary sales office, said dwelling can be converted to a dwelling upon issuance of a certificate of occupancy. If the temporary sales office is a manufactured home, it shall be installed to meet the applicable requirements of this Land Use Management Code as approved by the Zoning Administrator, and it shall be removed within thirty (30) days of the cessation of lot or house sales in the subject subdivision.

### **Section 11.8.3. Temporary Classroom**

On sites where educational or religious facilities are permitted, one or more temporary classrooms, which may be manufactured homes, may be permitted as temporary uses by the Zoning Administrator, upon application and after the issuance of a building permit, for a public school, private school, or church. The Zoning Administrator may attach reasonable conditions on the issuance of such permit to ensure compatibility and public safety. The duration of such temporary use and building permit shall not exceed one (1) year, unless an extension is granted by the Governing Body.

## **CHAPTER 11.9**

### **TOWERS AND WIRELESS SERVICE FACILITIES**

Section 11.9.1.	Purpose and Intent
Section 11.9.2.	Applicability
Section 11.9.3.	Performance and Construction Standards
Section 11.9.4.	Application Requirements
Section 11.9.5.	Application Processing
Section 11.9.6.	Criteria to Consider in Acting Upon Applications

#### **Section 11.9.1. Purpose and Intent**

The purpose of this chapter is to establish guidelines for the siting of all wireless telecommunication equipment and facilities, microwave towers, common carrier towers, cellular, television and radio telecommunications towers and antennae. The regulations and requirements of this Chapter are adopted for the following purposes:

- (a) To provide for the location of communication towers and communication antennas; and to protect residential areas and land uses from potential adverse impacts of communication towers, poles, and antennas by restricting them in accordance with the restrictions of this Chapter.
- (b) To minimize adverse visual impacts of communication towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
- (c) To accommodate the growing need for communication towers and antennas while minimizing the total number of towers within the community necessary to provide adequate personal wireless services to residents.
- (d) To promote and encourage shared use/co-location of existing and new communication towers (i.e., the use of multiple antennae operated by different providers on a single tower) as a primary option rather than construction of additional single-use towers or poles.
- (e) To promote and encourage placement of antennae on existing towers, where such sitting options exist, and on buildings, where such sitting options exist.
- (f) To consider public health, safety, and welfare in the siting of new towers, and to avoid potential damage to adjacent properties from tower or pole failure through engineering and careful siting of tower structures.

It is also the intent of this ordinance to limit the siting of telecommunications facilities and towers where they will have the least adverse impact on the community and still comply with the requirements of the Telecommunications Act of 1996 (Public Law No. 104-104, 47 U.S. C. Section 332(c)(7)). These intentions are accomplished with restriction of locations and by enacting controls on height, setbacks, screening, color, and materials in order to minimize visibility and promote public safety and welfare. The regulations in this Chapter are reasonably related to the valid public purposes described in this Section.

It is not the intent of the Governing Body to discriminate among providers of functionally equivalent services or to prohibit or have the effect of prohibiting the provision of wireless services in the own. It is also the intent of the Town that applications to place, construct, or modify personal wireless service facilities will be acted upon within a reasonable period of time.

### Section 11.9.2. Applicability

All new communication towers, poles, and communication antennas shall be subject to this Chapter, except that this Chapter shall not govern the following:

- (a) Any tower, or the installation of any antenna, that is fifty (50) feet or less in height and is owned and operated by a federally licensed amateur radio station operator or ham radio operator from the operator's residence.
- (b) Antennae or towers located on property owned, leased, or otherwise controlled by the Town or a County, or a School Board, provided that a license or lease authorizing such antenna or tower has been issued by the Town.
- (c) Monopole towers 100 feet or less in height located within electrical substations and antennae attached to existing transmission towers.

### Section 11.9.3. Performance and Construction Standards

- (a) **Structural Design** - New communication towers or poles and antennae, and modifications to existing structures including, without limitation, the addition of height, antennae or providers, shall be constructed in accordance with applicable federal, state and local regulations.
- (b) **Placement Restrictions** - Towers occupying a lot as a principal use shall at minimum meet the minimum lot size and setback requirements for the zoning district in which the lot is located. In addition, communication towers shall be setback from residential zoning district boundaries a minimum of one foot for each foot of tower or antenna height. All towers shall be located at least one-third of their height in feet from any public right-of-way. When the tower is on property leased, the setbacks shall apply to the lot of record, not the lease boundaries.
- (c) **Fencing** - A chain link fence or wall not less than six (6) feet in height from finished grade shall be provided around each communication tower or pole. Access to the tower or pole shall be through a locked gate. The tower or pole shall be equipped with an appropriate anti-climbing device, unless the Zoning Administrator waives this requirement for alternative tower structures.
- (d) **Landscaping** - The visual impacts of a communication tower at the ground level shall be mitigated by landscaping. Where adequate vegetation is not present, tower facilities shall be landscaped with a minimum ten (10) foot wide landscape strip or buffer which effectively screens the view of the tower compound at ground level. The use of existing vegetation shall be preserved to the maximum extent practicable and may be used to meet this landscaping requirement. See Chapter 16.4 of this Land Use Management Code for additional specifications.

- (e) **Height** - Towers shall be the minimum height necessary to provide parity with existing similar tower-supported antenna. No tower, pole, or antenna, whether freestanding or attached to a building or structure, shall exceed 100 feet in height from ground level; provided, however, that a variance application may be filed concurrently with the conditional use application and heard by the Governing Body to exceed this height limitation. To prevail, the applicant must successfully demonstrate why the prescribed maximum height is insufficient to provide adequate service, or that a taller tower will be in the community's interest by avoiding the construction of one or more additional towers at a new location.
- (f) **Illumination** - Communication towers, poles, or antennae shall not be lighted except to assure human safety or as required by the Federal Aviation Administration, Federal Communications Commission, or other federal agency with jurisdiction.
- (g) **Color and Material** - Towers clustered at the same site shall be of similar height and design. Communication towers not required to be painted or marked by the Federal Aviation Administration shall have either galvanized steel finish or be painted a non-contrasting color approved by the Governing Body to minimize the equipment's visibility. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (h) **Signs and advertising** - No advertising is permitted on a tower or antenna. However, towers shall have mounted in a conspicuous place a sign of not more than one (1) square foot in area, identifying the facility's owner and providing a means of contact in the event of an emergency.
- (i) **Co-location** - Proposed communication antennas may and are encouraged to collocate onto existing communication towers. New or additional conditional use approval is not required for the addition of an antenna to an existing approved tower or pole. All towers over 100 feet in height shall have structural capacity and ground or interior space to accommodate multiple users. Towers up to 160 feet shall accommodate at least three users, and towers over 160 feet shall accommodate at least five users.
- (j) **Noninterference**- No communication tower or antenna shall interfere with public safety communication. Frequency coordination is required to ensure noninterference with public safety system and/or public safety entities.

#### **Section 11.9.4. Application Requirements**

In addition to and in conjunction with the information required for conditional use applications generally, as provided in Chapter 21.2 of this Land Use Management Code, each application shall include the following:

- (a) A site plan with topographical information.
- (b) An elevation view, perspective drawing, or simulated photograph of how the proposed telecommunication tower will look from public rights-of-way and surrounding residential streets from which it will be visible once constructed.
- (c) Supporting engineering calculations and information which provide evidence of need and document radio frequency range, coverage area, and tower height requirements. The application must specifically address whether there is a technically suitable space available on an existing tower or other location within the search area (i.e., the grid for the placement of the antenna), and such information shall specifically include the location of all existing towers within a one-mile radius of the site proposed.

#### **Section 11.9.5. Application Processing**

Decisions on applications for wireless service facilities shall be made within a reasonable period of time, which shall mean generally that such decisions shall be processed in roughly the same amount of time required for other conditional use applications; provided, however, that the Planning Commission and Governing Body shall each table an application for conditional use for a wireless service facility no more than once before making a recommendation and decision, respectively, unless the applicant does not object to additional continuances.

#### **Section 11.9.6. Criteria to Consider in Acting Upon Applications**

In addition to the criteria for determining whether to approve or deny conditional uses, as specified in Chapter 21.2 of this Land Use Management Code, when an application for wireless telecommunication facilities or equipment is considered, the Planning Commission and the Governing Body shall consider the following without limitation:

- (a) Impacts on surrounding properties with regard to aesthetics and fit with the context of its surroundings, considering the location, height, type of facility, color and materials proposed.
- (b) Whether impacts on surrounding properties on aesthetics can be mitigated by a monopole tower, or by a camouflaged tower (e.g., disguised as a pine tree), or by using stealth technology (i.e., making the tower resemble common features such as church steeples, bell towers, clock towers, grain silos, gateway elements, and monuments), or by requiring greater setback from impacted properties.
- (c) Whether the tower or wireless facility would pose an unreasonable risk to adjoining properties, including consideration of a fall area where ice or other debris may fall off the tower without harm.



- (d) The appropriateness of the location of existing towers, poles, and buildings, including electric transmission towers, that might serve as alternative locations to construction of a new tower or pole or placement on a building in a new location. It is the intent that new antennae where possible shall be co-located on existing towers and poles, placed on existing buildings, or be within a concealed support structure (e.g., camouflaged as an artificial pine tree, church steeple, clock tower, grain silo, flagpole, etc.), prior to authorizing the installation of a new non-camouflaged pole or tower. The failure to consider or unwillingness to accept viable options as described in this paragraph may be grounds for denial of a conditional use application for a new tower or pole.
- (e) Whether the application demonstrates compliance with the regulations established in this chapter.
- (f) Whether the tower would be engineered and constructed to accommodate additional communication service providers (i.e., whether the application provides for colocation as required by this Chapter).
- (g) Whether a denial of the application would have the effect of prohibiting wireless services in the jurisdiction or area or would unduly restrict competition among wireless providers.

In addition, the Governing Body shall make its decision on the application based on substantial evidence and sufficient to allow a reviewing court to understand the reasoning behind the decision and whether that reason comports with the evidence presented. To this end, for each application for wireless service facilities, the Governing Body shall rely on findings of fact in making a decision on said application. Such findings may be part of the recommendation and report of the Zoning Administrator, the recommendation of the Planning Commission, the application and supporting materials submitted by the applicant, testimony from interested individuals, professionals, and the applicant, and any additional findings of fact the Governing Body may itself determine. Generalized community concerns, unaccompanied by supporting documentation, do not constitute substantial evidence under Section 704 of the Telecommunication Act of 1996 or this Chapter.

## **CHAPTER 11.10 OTHER USES**

### **Section 11.10.1. Roadside Produce Stand**

#### **Section 11.10.1. Roadside Produce Stand**

A produce stand not greater than 500 square feet of gross floor area for the purpose of seasonal sales of products grown or produced on the premises on which it is located is allowed as an accessory structure in a front yard of a lot containing a farm or agricultural use, provided that there is adequate egress and two on-site parking spaces available. A produce stand larger than 500 square feet of gross floor area, or the resale of imported agricultural produce or products on a farm or agricultural use, may be permitted with conditional use approval.

## **CHAPTER 11.11 ADULT BUSINESSES**

Section 11.11.1.	Findings
Section 11.11.2.	Definitions
Section 11.11.3.	Adult Businesses are Principal Uses
Section 11.11.4.	Prohibited Establishments
Section 11.11.5.	Exempt Businesses
Section 11.11.6.	Location and Separation Restrictions
Section 11.11.7.	Licensing Requirements for Adult Businesses
Section 11.11.8.	License Required
Section 11.11.9.	License Processing
Section 11.11.10.	Conditions of License
Section 11.11.11.	License Fee
Section 11.11.12.	Operational Requirements for Adult Businesses
Section 11.11.13.	Unlawful Operation Declared a Public Nuisance
Section 11.11.14.	Application of Other Municipal Ordinances

### **Section 11.11.1. Findings**

The Governing Body of the Town finds and declares that adult businesses, by their nature, generate secondary effects unless regulated. This finding is based on the experiences of other communities and municipalities and on studies, reports and findings of other communities. Among the acts identified with such establishments are disorderly conduct, prostitution, drug trafficking and drug use. Experience in other cities has shown that where adult businesses are concentrated, neighborhoods deteriorate and the areas become less desirable places in which to work and live. Accordingly, the purpose of this Chapter is to regulate certain types of businesses so that many types of criminal activities frequently engendered by such businesses will be curtailed.

This Chapter is intended to minimize the adverse land use impacts caused by the undesirable secondary effects of adult bookstores, adult businesses, and erotic dance establishments. The Governing Body of the Town finds that restricting adult businesses to industrially zoned areas and imposing development standards can legitimately regulate adult businesses by establishing zones where adult businesses are most compatible with other uses or the surrounding neighborhood, and by requiring minimum distances to be maintained between adult business uses and other uses so as to afford adequate protection to residential uses.

Public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "adult entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior described *above*, and acceleration of community blight by the concentration of such establishments in particular areas. Furthermore, other forms of adult entertainment, including but not limited to, adult bookstores, peep shows, adult theaters, and massage parlors have a deleterious effect upon the quality of life in neighborhoods, commercial districts, and urban life in general. The limitation of adult business to certain areas and distances from other land uses is in the public welfare, and, it is a matter of substantial governmental interest to minimize the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which provide or establish adult entertainment or adult uses.

This Chapter represents a balancing of interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments and adult businesses versus the protected rights of such businesses and their patrons. It is not the intent, in enacting this Chapter, to deny to any person rights to speech protected by the United States or Georgia Constitutions, nor is it the intent to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually oriented films, videotapes, books, or other materials. Further, the Governing Body of the Town does not intend to deny or restrict the rights of any adult to obtain or view any sexually oriented materials protected by the United States or Georgia Constitutions, nor do they intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute, or exhibit such constitutionally protected materials.

### **Section 11.11.2. Definitions**

**Adult bookstore:** A bookstore having ten (10) percent or more of the gross public floor area or ten (10) percent or more of its display shelf capacity, whichever is less, devoted to or containing publications, books, magazines, periodicals, videotapes, and other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. This term includes adult video stores.

**Adult business:** Any business or establishment where employees or patrons expose specified anatomical areas or engage in specified sexual activities for the purpose of sexual gratification or any business which offers its patrons goods, services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas. This term specifically includes any nightclub, theater or other establishment which features live performances by topless or bottomless dancers, go-go dancers, strippers or similar entertainers, which such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. This term also includes sexually oriented escort bureaus and adult video viewing booths.

**Adult gift shop:** Any commercial establishment that has in its stock articles or merchandise more than ten percent (10%) of which is characterized or distinguished by emphasis on matter depicting, describing or used to simulate specified sexual activities or specified anatomical areas, or such commercial establishment where such stock occupies more than ten percent of the gross public floor area of the establishment.

**Adult video viewing booth:** Private or semi-private booths or cubicles for viewing materials, films, videos, or other reproductions depicting nudity, specified anatomical areas, and/or specified sexual activities.

**Good moral character:** A person is of good moral character according to this Chapter if that person has not been convicted of a felony or any crime not a felony if it involves moral turpitude, in the past five (5) years. The city with jurisdiction may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere.

**Gross public floor area:** The total area of the building is accessible or visible to the public.

**Mainstream performance house:** A theater, concert hall; auditorium, museum or a similar establishment which regularly features live performances such as plays or concerts which are not distinguished or characterized by an emphasis on the depiction, description or featuring of specified anatomical areas and where such depiction, if any, is only incidental to the primary purpose of any performance.

**Massage:** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity therefore.

**Massage establishment:** Any commercial establishment having a source of income or compensation derived from the practice of massage, as defined in this section, and which has fixed a place of business where any person, firm, association, or corporation engages in or carries on any of the activities defined as "massage."

**Massage therapist:** Any person who, for any consideration whatsoever, engages in the practice of massage as defined in this section.

**Minor:** For the purposes of this Chapter, minor means any person who has not attained the age of eighteen (18) years.

**Service-oriented escort bureau:** An escort bureau which maintains an open office at an established place of business; does not use an escort bureau runner; does not advertise, offer, solicit, agree to, or provide sexual conduct to a patron; and employs or provides only escorts who possess escort identification cards.

**Specified anatomical areas:** Shall include any of the following:

- (a) Less than completely and opaquely covered human genitals or pubic region; buttock, or female breast below a point immediately above the top of the areola; or
- (b) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

**Specified sexual activities:** Shall include any of the following:

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct, anilingus, buggery, cunnilingus, fellatio, necrophilia, pedophilia; or
- (b) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence
- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation
- (d) Fondling or touching of nude human genitals, pubic region, buttocks or female breast
- (e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain
- (f) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being
- (g) Human excretion, urination, menstruation, vaginal or anal irrigation.

#### **Section 11.11.3. Adult Businesses are Principal Uses**

Adult bookstores, adult businesses and adult gift shops are hereby defined as principal uses. No such uses shall be considered an accessory use for purposes of this Land Use Management Code.

#### **Section 11.11.4. Prohibited Establishments**

Adult Video Viewing Booths, as defined by this Chapter, are prohibited.

#### **Section 11.11.5. Exempt Businesses**

This Chapter shall not be construed to apply to any of the following:

- (a) Bookstores and video rental establishments that do not meet the definition of "adult bookstore" in this Chapter.
- (b) Therapeutic massage establishments and massage therapists.
- (c) Mainstream performance houses.
- (d) Service-oriented escort bureaus.

### **Section 11.11.6. Location and Separation Restrictions**

No adult bookstore, adult business, or adult gift store shall be located:

- (a) Within seven hundred fifty (750) feet of any parcel of land which is either zoned or used for residential uses or purposes.
- (b) Within seven hundred fifty (750) feet of any parcel of land upon which a church, school, governmental building, library, civic center, public park or playground is located.
- (c) Within seven hundred fifty (750) feet of any parcel of land upon which another establishment regulated by this Chapter is located.
- (d) Within seven hundred fifty (750) feet of any parcel of land upon which any establishment selling alcoholic beverages is located.
- (e) On less than one (1) acre of land or on property that contains less than one hundred fifty (150) feet of public road frontage.
- (f) In any district other than one that is zoned for and meets all requirements of the Industrial zoning district and has received conditional use approval.
- (g) In any building which has within the past 18 months been used for purposes of or in the commission of solicitation, prostitution, or other illicit acts.

For the purposes of this Section, distance shall be from property line to property line along the shortest possible straight-line distance, regardless of any customary or common route or path of travel, i.e., "as the crow flies." The term "parcel of land" means any quantity of land capable of being described by location and boundary.

### **Section 11.11.7. Licensing Requirements for Adult Businesses**

It shall be unlawful for any person to operate an adult business unless such business shall have a valid current license. Unless the Governing Body of the Town has adopted an ordinance more specifically addressing the licensing requirements for adult business uses and that conflict with these provisions, the application for license shall comply with this Chapter.

### **Section 11.11.8. License Required**

Any person, association, partnership or corporation desiring to obtain a license to operate, engage in, conduct or carry on any adult business shall make application to the Governing Body. Prior to submitting such application, a nonrefundable fee of five hundred dollars (\$500.00) shall be paid to the Town with jurisdiction to defray, in part, the cost of investigation and report required by this Chapter.

### **Section 11.11.9. License Processing**

The Town shall have thirty (30) days to investigate the application and the background of the applicant. If the city police chief, city clerk, or other responsible city official, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this Chapter, said official shall, within ten (10) days, notify the applicant of such denial.

### **Section 11.11.10. Conditions of License**

- (a) No such license may be sold, transferred, or assigned by a licensee.
- (b) No licensee shall operate, conduct, manage, engage in or carry on an adult business under any name other than the person's name and the name of the business as specified on the approved license.
- (c) No license shall be granted to any person who is not of good moral character.
- (d) It shall be unlawful for an adult business to admit or permit the admission of minors on the premises or that portion of a premise devoted to adult business uses.
- (e) The Town may pose additional reasonable restrictions on the issuance of a license which have a clear rationale with regard to upholding the public safety, health, morals, and general welfare of the community.

### **Section 11.11.11. License Fee**

There shall be an annual license fee of five thousand dollars (\$5,000.00) for an adult business. There shall be no prorating of license fees, and the license fee for any partial calendar year shall be the same as the fee for a full calendar year.

### **Section 11.11.12. Operational Requirements for Adult Businesses**

Adult businesses may be open between the hours of 7:00 p.m. and 1 :00 a.m. Monday through Friday, and Saturday from 5:00 p.m. until 12:00 midnight. No licensee shall permit the place of business to be open on Sundays.

If dancing or performances are involved in the operation, all such activities shall occur on a platform intended for that purpose which is raised at least eighteen (18) inches from the level of the floor. No such activities shall occur closer than four (4) feet to any patron. No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.



### **Section 11.11.13. Unlawful Operation Declared a Public Nuisance**

Any adult bookstore, adult business, or adult gift shop operated, conducted or maintained contrary to the provisions of this Chapter shall be and the same is hereby declared to be unlawful and a public nuisance. The Town may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult use and restrain and enjoin any person from operating, conducting or maintaining said adult use contrary to the provisions of this Chapter. In addition, violation of the provisions of this Chapter shall be per se grounds for suspension or revocation of a license granted hereunder.

### **Section 11.11.14. Application of Other Municipal Ordinances**

Where the Town has adopted an ordinance relating to the siting, operation, or licensing of adult businesses, said ordinance shall apply in addition to the requirements of this Chapter. In cases where such other municipal ordinance is more restrictive, the more restrictive requirement shall apply.

## ARTICLE 12 PARKING AND LOADING

CHAPTER 12.1	GENERAL PROVISIONS
CHAPTER 12.2	CIRCULATION
CHAPTER 12.3	OFF-STREET PARKING
CHAPTER 12.4	OFF-STREET PARKING REDUCTION
CHAPTER 12.5	OFF-STREET LOADING

### CHAPTER 12.1 GENERAL PROVISIONS

Section 12.1.1.	Findings
Section 12.1.2.	Purpose and Intent
Section 12.1.3.	Applicability
Section 12.1.4.	Interpretations

#### Section 12.1.1. Findings

- (a) **Generally:** Poor design of parking lots can lead to damage to the environment and may require the community to subsidize the interests of a commercial enterprise at the expense of the community's environment. It is reasonable to require that development prevent environmental damage through good design of parking lots. Possible negative effects of parking and loading areas include creation of heat islands and changes to microclimate, isolation of pedestrians, increased stormwater runoff, and reduced stormwater infiltration into the ground.
- (b) **Heat islands:** Large parking lots can create heat islands where pavement absorbs solar radiation during the day and remains warm well into the night. When heat islands exist, cooling costs are higher than normal. Strategies can be used to reduce heat islands and their effects.
- (c) **Lack of safe pedestrian mobility:** Large areas of paving are necessary to accommodate automobiles, but they can be unfriendly to pedestrians without specific regulations requiring that designers accommodate pedestrians. Large, open parking areas are conducive to high speeds and random maneuvers which can endanger pedestrians. Wide driveway aisles and access roads also increase speeds and discourage pedestrian travel. Street and parking lot design is moving away from automobile-centered standards toward a more balanced approach that includes pedestrians.

- (d) **Stormwater management:** Parking lots can be seas of asphalt contributing to the degradation of local water quality. Parking lots can be more compatible environmentally if environmental protection measures are incorporated into design standards and regulations. Porous pavement and grass pavers reduce runoff by allowing it to pass through the paved surface and infiltrate back into the soil and groundwater. Utilizing porous pavements and grass pavers also reduces or eliminates land dedicated to surface storm water management facilities. Porous pavement designs and grass pavers are appropriate in some instances. Other types of stormwater management facilities are also more environmentally compatible, such as vegetative swales and bioretention.
- (e) **Overbuilding of parking lots:** Past off-street parking requirements have called for huge, expanses of parking around shopping centers and malls, some or much of which remains unused for most of the year. The risk of lost retail sales because of insufficient customer parking, as well as parking requirements for commercial loans, have led in part to the overbuilding of parking lots. This has worked to the benefit of retailers but has been shown to have undesirable environmental impacts, and those costs have been borne by communities. Certain parking areas are used only a few days of the year, yet the impacts of excess pavement continue every day, regardless of whether the parking is used or not. Studies have shown that at least one-half of the parking spaces in shopping centers are vacant at least 40 percent of the time (Urban Land Institute 1982, as cited in "An Opportunity to Reduce Minimum Parking Requirements," by Donald Shoup, *Journal of the American Planning Association*, Winter 1995, 14-28}. Parking lot construction is a considerable factor in the cost of development. Reducing parking areas reduces development costs. Therefore, reductions in the size of paved parking and flexibility in the types of pavement and parking designs are beneficial to all concerned.

### **Section 12.1.2. Purpose and Intent**

The multiple purposes of this Article are summarized as follows:

- (a) Establish requirements for multi-modal access to development sites, including vehicular, truck service, pedestrian, as appropriate;
- (b) Establish on-site circulation patterns conducive to safe pedestrian as well as vehicular and truck access;
- (c) Establish minimum off-street parking and loading areas in proportion to the need created by each use, but considering reductions for the provision of alternative modes of travel;
- (d) Reduce congestion in the streets and ensure that uses and functions of public rights of-ways are not interrupted;
- (e) Establish certain maximum as well as minimum requirements for parking spaces to reduce development costs and ensure that excess impervious surfaces are not constructed, while providing for exceeding maximums when a demonstrated need exists. Parking requirements should be based on actual average parking demands, rather than to accommodate the highest hourly parking at a site as in conventional parking requirements.
- (f) Provide alternative pavement materials, such as porous asphalt, turf block, gravel, wood mulch, and cobbles which have higher degrees of water quality effectiveness than conventional asphalt and pervious concrete;
- (g) Promote flexible approaches to the provision of off-street parking, including in some cases, as appropriate, use of on-street parking, shared parking arrangements, smaller spaces for compact cars, and unimproved or pervious pavement overflow or spillover parking areas;
- (h) Establish design and improvement specifications for the development of parking lots, loading areas, access aisles, and connections of parking lots to public streets;
- (i) Ensure that parking areas will be compatible with abutting residential zoning districts.

### Section 12.1.3. Applicability

This Article shall apply to any new building constructed; for new uses or conversions of existing, conforming buildings; and for enlargements of existing structures. This Article shall not be construed so as to require additional parking spaces to be furnished for an existing building which is repaired, altered, maintained, or modernized, where no structural alterations are made and the size of the building is not increased; provided, however, that when the occupancy of any building is changed to another use, parking shall be provided to meet the requirements of this Article for the new use.

### Section 12.1.4. Interpretations

- (a) **Fractions:** Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be construed to be the next highest whole number.
- (b) **Parking space requirement not specified:** Where the parking requirement for a particular use is not described in this Article, and where no similar use is listed, the Zoning Administrator shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on .the largest shift, total square footage, potential customer use, and other expected demand and traffic generated by the proposed use. At the discretion of a development applicant, a parking generation study prepared by a qualified professional may be submitted to aid the Zoning Administrator in making such a determination; if submitted, it shall be considered by the Zoning Administrator prior to making a determination.
- (c) **Computations for multiple floor uses within a building:** In cases where a building contains some combination of office space, retail or wholesale sales area, and/or bulk storage area, the Zoning Administrator may authorize that the building space be divided in to such floor space use areas and combined computations of floor areas (e.g., warehousing, retail, and/or office) in meeting the off-street parking or loading space requirements of this Article.

## **CHAPTER 12.2 CIRCULATION**

Section 12.2.1.	Pedestrian Facilities Internal to Site Required
Section 12.2.2.	General Circulation
Section 12.2.3.	Vehicular Circulation

### **Section 12.2.1. Pedestrian Facilities Internal to Site Required**

Internal to each building site, non-single-family residential developments shall provide safe routes of pedestrian access between points of departure and destinations. All walkways internal to the site shall be a minimum of four (4) feet wide. Pedestrians shall have the right-of-way over automobile travel. The internal sidewalk system shall connect to the public sidewalk system along streets and highways, where it exists or is planned. Where a transit stop exists, the internal sidewalk system shall provide as direct a link as possible from the buildings on site to the transit stop. The internal sidewalk system shall also connect to any sidewalk systems on abutting private properties or provide for such connections in their absence. See also Section 9.2.8, "Pedestrian Facilities" of this Land Use Management Code.

### **Section 12.2.2. General Circulation**

- (a) All parking shall be provided with vehicular access to a street. Loading areas shall be provided with access to a street or alley. Parking or loading areas shall not thereafter be encroached upon or altered without approval of the Zoning Administrator.
- (b) Except for single-family and duplex dwellings, off-street parking and loading spaces shall have access so that their use will not require backing movements or other maneuvering within a street right-of-way.
- (c) There shall be no obstruction of a public sidewalk, including that portion of the sidewalk within a driveway apron, due to parking, loading, or other activity. The Zoning Administrator may require that construction contractors make special provisions for maintaining safe passage along public sidewalks during construction.

### **Section 12.2.3. Vehicular Circulation**

Efficient and easily recognized vehicular circulation routes within a development are vital and shall be provided. Internal vehicle circulation shall be designed or redesigned in a manner that avoids conflicts between through-traffic (i.e., traffic flowing into and out of the site) and local traffic (i.e., traffic through parking areas). Interior vehicular circulation shall be provided by:

- (1) visually orienting the driver with a regular, logical system of interior driveways and roadways;
- (2) identifying entrance drives with small entry signs (see Section 17.3.3.1)
- (3) preventing vehicles from driving across or through designated parking areas by placing raised landscaped dividers or walkways between parking aisles.

## **CHAPTER 12.3 OFF-STREET PARKING**

Section 12.3.1.	Off-Street Parking Required
Section 12.3.2.	Location of Off-Street Parking Areas
Section 12.3.3.	Parking Plan Required
Section 12.3.4.	Minimum Design Requirements
Section 12.3.5.	Minimum Number of Parking Spaces Required
Section 12.3.6.	Number of Handicapped Parking Spaces Required
Section 12.3.7.	Administrative Variances
Section 12.3.8.	Parking Space and Isle Design Specifications
Section 12.3.9.	Compact Parking Spaces
Section 12.3.10.	Angled Parking
Section 12.3.11.	Stacking Spaces for Drive-Through Facilities
Section 12.3.12.	Improvement Requirements
Section 12.3.13.	Stormwater Requirements for Large Parking Lots

### **Section 12.3.1. Off-Street Parking Required**

Off-street automobile parking spaces shall be provided on every lot on which any building, structure, or use is hereafter established in all zoning districts, except as otherwise specifically exempted by this Article. Required parking spaces shall be available for the temporary parking of passenger vehicles for residents, customers, patrons, and employees, as appropriate given the subject use.

When a parking lot of 75 spaces or an area of ½ acre or more is proposed, the applicant shall be required by the Zoning Administrator to divide and designate the parking lot into distinct use areas as follows.

- (a) Prime customer parking. This type of parking should be located within 200 to 300 feet of buildings and near building entrances, because these spaces are used more frequently (i.e., high turnover).
- (b) Overflow customer parking. This type of parking is used to meet peak parking demands. Spaces are used less frequently.
- (c) Employee parking areas. This type of parking is provided at the fringe of the site and areas not readily associated with major building entrances, with low turnover.

### **Section 12.3.2. Location of Off-Street Parking Areas**

All parking spaces required by this Article shall be provided on the same lot with the main building or use which it serves. Upon demonstration that the parking spaces required by this Article are not available and cannot reasonably be provided on the same lot as the building, structure or use it serves, the Zoning Administrator may permit some or all of the required parking spaces to be provided on any lot, a substantial portion of which is within eight hundred (800) feet of such building, structure, or use. This provision shall require submittal of evidence of ownership or valid agreement to lease the parking area off-site that is intended to be used to comply with this Article.

### **Section 12.3.3. Parking Plan Required**

Before any building permit is issued, the parking lot layout and area must be found by the Zoning Administrator to be in compliance with all requirements of this Article. The Building Inspector shall not allow occupancy or use of a building until advised by the Zoning Administrator that parking facilities meet the requirements of this Article.

No permit shall be issued for any parking area, except those for detached, single-family residences, until the plans and specifications have been submitted for review by the Zoning Administrator. Such plans and specifications shall include the number of spaces provided and required, the location of entrances, exits, aisles, curbing where required, landscaping, screening, surface materials, and provisions for drainage.

### **Section 12.3.4. Minimum Design Requirements**

- (a) Dead-end parking areas shall be prohibited unless design conditions prevent a connected design, and they can only be used if 90-degree parking design is used.
- (b) Parking aisle length shall not exceed 500 feet without a break for circulation.
- (c) One landscaped divider (i.e., planted area within in between and separating the vehicle parking spaces fronting one another) with a minimum width of ten (10) feet shall be provided for every fifth parking aisle in a parking lot; provided, however, that the Zoning Administrator may vary this requirement in cases of short parking aisles or where alternative designs prevent random maneuvers which can endanger pedestrians.
- (d) Light poles should be located in landscaped planter strips. Where this cannot be accomplished, light poles must be placed on a reinforced concrete pedestal to protect them from damage or being knocked over.
- (e) Parking lots shall meet the requirements for parking lot landscaping as specified in Chapter 16.4 of this Land Use Management Code.



### **Section 12.3.5. Minimum and Maximum Onsite Parking Spaces**

Unless specifically provided otherwise in this Article, on each lot where a building, structure, or use exists, each site shall be designed to provide and shall provide for off-street parking in the minimum (and not to exceed the maximum) amounts in Table 12.1.

No existing or future off-street parking area shall be reduced in capacity to less than the minimum required number of spaces, or increased to more than the maximum permitted number of spaces, or altered in design or function to less than the minimum standards, unless specifically provided for in this Article.

This Section shall not be construed as requiring compliance of parking lots which lawfully existed on the effective date of this Article; provided, however, that the Zoning Administrator shall ensure parking lots that do not comply with this Article meet the requirements of this Article or substantially comply when a new development permit is required or a building permit is required to add additional building space on the site. If substantial redesign of the parking lot is required to comply with this Article in such cases of new development or building additions, the Zoning Administrator may accept substantial rather than complete compliance when the strict application of a requirement of this Article would pose substantial practical difficulty.

**TABLE 12.1**  
**MINIMUM AND MAXIMUM NUMBER OF**  
**OFF-STREET PARKING SPACES REQUIRED**

Unless otherwise noted, the parking requirement shall be based on the gross square footage of the building or buildings devoted to the particular use specified.

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING REQUIRED
<b>COMMERCIAL USES</b>		
Animal hospital; kennel	One per 400 square feet	One per 250 square feet
Appliance sales and repair	One per 500 square feet	One per 300 square feet
Art gallery	One per 400 square feet	One per 300 square feet
Automated teller machine, no drive through	Two per machine	Three per machine
Auto Parts store	One per 500 square feet	One per 300 square feet
Automobile sales	One per 200 square feet of repair space plus one per 400 square feet of showroom/office	One per 150 square feet of repair space plus one per 300 square feet of showroom/office
Automobile service and repair	One per 250 square feet	One per 200 square feet
Bank, credit union, savings and loan	One per 300 square feet (also see stacking requirements for drive-through facilities)	One per 200 square feet (also see stacking requirements for drive-through facilities)
Barber shop or beauty parlor	One per 300 square feet	One per 250 square feet
Bed and breakfast inn	Two for the owner-operator plus one per guest bedroom	Two for the owner-operator plus one per guest bedroom
Carpet or floor covering store	One per 300 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area	One per 250 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area
Car wash, staffed or automated	Two stacking spaces for each car wash lane plus two drying spaces per lane	Three stacking spaces for each car wash lane plus two drying spaces per lane
Contractor's establishment	One per 300 square feet of office space and one per 2,000 square feet of outdoor storage	One per 250 square feet of office space and one per 1,500 square feet of lot outdoor storage
Convenience store	One per 200 square feet	One per 150 square feet
Dance hall	One per 125 square feet	One per 75 square feet
Day care center	One per 500 square feet	One per 375 square feet
Funeral home or mortuary	One per four seats in largest chapel	One per three seats in largest chapel

**Table continued on next page**

<b>USE</b>	<b>MINIMUM PARKING REQUIRED</b>	<b>MAXIMUM PARKING PERMITTED</b>
Furniture and home furnishing store	One per 600 square feet	One per 300 square feet
Grocery store	One per 300 square feet	One per 250 square feet
Hardware store	One over 400 square feet	One per 300 square feet
Health or fitness club	One per 200 square feet	One per 150 square feet
Hotel, extended stay	1.5 per unit loading unit	Two per loading unit
Hotel or motel	One per lodging unit, plus one per each 150 square feet of banquet, assembly, meeting, or restaurant seating area	1.2 per lodging unit, plus one per each 100 square feet of banquet, assembly, meeting, or restaurant seating area
Laundromat	One for each three washer/dryer combinations	One for each two washer/dryer combinations
Nursery or garden center	One per 300 square feet plus one per 1,500 square feet outdoor sales or display area	One per 250 square feet plus one per 1,000 square feet outdoor sales or display area
Office	One per 300 square feet	One per 250 square feet
Open air sales	One per 250 square feet of indoor floor space plus one per 600 square feet of outdoor sales	One per 200 square feet of indoor floor space plus one per 500 square feet of outdoor sales
Personal service establishment	One per 250 square feet	One per 200 square feet
Photofinishing laboratory	One per 250 square feet	One per 200 square feet
Photographic studio	One per 300 square feet	One per 250 square feet
Restaurant, bar, or tavern	One per 125 square feet	One per 75 square feet
Retail store	One per 275 square feet	One per 250 square feet
Self-storage facility (mini-warehouse)	One per 40 storage units	One per 25 storage units
Service station	One per 250 square feet of office space plus two per service bay	One per 200 square feet of office space plus three per service bay
Shopping center	One per 275 square feet	One per 225 square feet
<b>INDUSTRIAL USES</b>		
Manufacturing processing, assembling	One per 1,300 square feet	One per 1,000 square feet
Warehouse	One per 2,000 square feet	One per 1,500 square feet
Wholesale	One per 1,000 square feet	One per 600 square feet
<b>GOVERNMENT - INSTITUTIONAL USES</b>		
Assembly hall; auditorium; nonprofit club or lodge	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seating	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seating
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seating	One per three seats in room with greatest seating capacity or one per 30 square feet in largest assembly area without fixed seating

**Table continued on next page**

USE	MINIMUM PARKING REQUIRED	MAXIMUM PARKING PERMITTED
Government office	One per 300 square feet	One per 250 square feet
Hospital	1.5 per bed	Two per bed
Library	One per 400 square feet	One Per 300 square feet
Museum	One Per 500 square feet	One Per 300 square feet
Nursing home	One per four beds	One per three beds
Post office	One per 200 square feet	One per 150 square feet
School	One per 300 square feet	One per 200 square feet
School for the arts	One per 300 square feet	One per 200 square feet
School, trade or business	One per 200 square feet	One per 150 square feet
<b>RESIDENTIAL USES</b>		
Apartment, one bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, two bedroom	1.5 per unit plus 0.1 per unit for guest space	Two per unit plus 0.2 per unit for guest space
Apartment, three bedroom	2 per unit plus 0.2 per unit for guest space	Three per unit plus 0.2 per unit for guest space
Home occupation	(see provisions for home occupations)	
Residence within building containing a non-residential use	One per unit	1.5 per unit
Single family detached or attached	Two per unit	Four per unit
Two family dwelling	Two Per unit	Three per unit
<b>RECREATIONAL FACILITIES</b>		
Athletic field	20 spaces per field	25 spaces per field
Billiard hall/amusement arcade	One per 200 square feet	One per 150 square feet
Bowling alley	Two per each bowling lane (add parking for billiard hall/ amusement arcade, if Provided)	Three per each bowling lane (add parking for billiard hall/ amusement arcade, if Provided)
Community center	One per 300 square feet	One per 250 square feet
Golf course	2.5 per hole	Three per hole
Golf driving range, principal use	0.75 per tee	1 per tee
Ice or roller-skating rink	One per 200 square feet	One per 150 square feet
Miniature golf	Two per hole	Three per hole
Stadium or sport arena	One per twelve feet of bench seating	One per ten feet of bench seating
Swimming pool - subdivision amenity	One per 150 square feet of surface water area	One per 100 square feet of surface water area
Swimming pool - public	One per 125 square feet of surface water area	One per 75 square feet of surface water area
Tennis or racquet ball court	Two per court	Three per court
Theater, cinema	One per four fixed seats	One per three fixed seats

Retail facilities with over 250 parking stalls shall require a minimum of one standard size stall clearly marked in yellow on pavement "EMERGENCY PARKING ONLY." The location of the parking stall shall be as close as possible to major building entries.

### Section 12.3.6. Number of Handicapped Parking Spaces Required

Regulations and dimensions for handicapped parking spaces shall be per requirements of the Americans with Disabilities Act (ADA) (Public Law 101-136), the State Building Code, and the American National Standards Institute. The required number of handicapped accessible spaces, which must be provided on-site, shall be as provided in Table 12.2. Said spaces shall count toward the requirements for off-street parking as specified in Table 12.1. In addition, handicapped van spaces are required at a rate of one van space for each eight (8) handicapped spaces required, with a minimum of one.

**TABLE 12.2  
HANDICAPPED PARKING REQUIREMENTS**

Total Required Parking Spaces	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 301	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

- (a) **Locations:** Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, or buildings with multiple entrances, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- (b) **Dimensions:** Accessible parking spaces shall be at least nine (9) feet wide with a minimum five (5) foot-wide access aisle. For van spaces, the width of the parking space shall be at least eleven (11) feet wide with a minimum five (5) foot wide access aisle. Parking access aisles shall be part of an accessible route to the building or facility entrance; two accessible parking spaces may share a common access aisle.
- (c) **Signs:** Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility, per applicable state law requirements. Such signs shall be located so that they cannot be obscured by a vehicle parked in that space.



Source: De Chon, Joseph, and Lee E. Keppelman. 1984. *Time-Saver Standards for Site Planning*. Figure 6.2.22, p. 673. New York: McGraw-Hill.

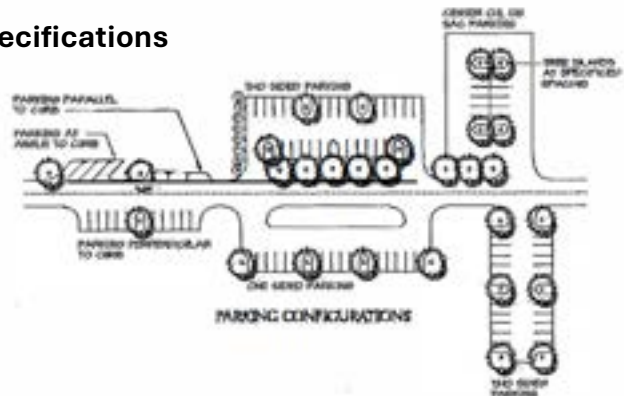
### Section 12.3.7. Administrative Variances

The Zoning Administrator may allow parking at a rate of up to ten percent (10%) *above* the maximum permitted number of spaces, or at a rate of no more than 20 percent (20%) below the minimum required, on a case-by-case basis based upon the scale and impacts of the request, for good cause shown. The applicant shall make said request in writing which shall include documentation from an acceptable industry publication (e.g., Institute of Transportation Engineers, Urban Land Institute, American Planning Association, etc.) or by a study prepared by a qualified professional that documents parking requirements.

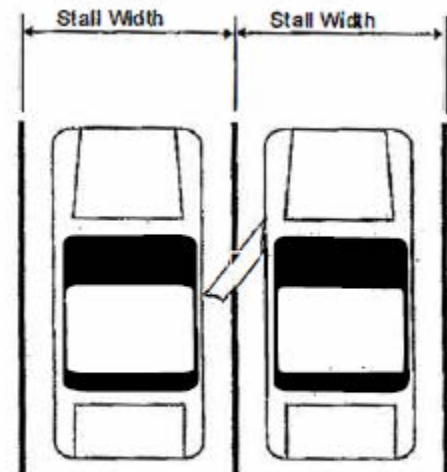
In approving administrative variances to the parking requirements in Table 12. 1, the Zoning Administrator may as a condition of approval, ii applicable, require an area to be reserved or set-aside for additional parking area for future use if needed.

### Section 12.3.8. Parking Space and Aisle Design Specifications

Designers are permitted flexibility with regard to parking lot designs, subject to the requirements of this Section and other applicable provisions of this Article.



- (a) **Parking space width:** When fewer than 75 parking spaces are proposed or provided, off-street parking spaces shall be a minimum of nine (9) feet in width and twenty (20) feet in length, with wider (10 foot) spaces encouraged in high-turnover areas. When 75 or more parking spaces are proposed or provided, off-street parking spaces shall meet the widths specified in Table 12. 3.



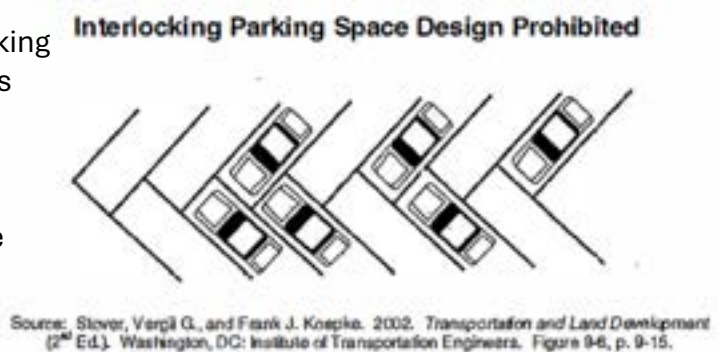
Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 9-13, p. 9-24.

**TABLE 12.3**  
**REQUIRED PARKING STALL WIDTHS**

Type of Parking Area	Width in Feet Standard Midsize	Width in Feet Compact (Where Permitted)
Prime customer	9.0	8.0
Overflow customer	8.5	7.5
Employee	8.0	7.0

- (b) **Parking space length:** Parking space length shall be twenty (20) feet, except where compact parking is authorized by the Zoning Administrator, in which case parking space lengths can be reduced to sixteen ( 16) feet.

- (c) **Interlocking design:** An interlocking or "herringbone" parking design is not permitted, as it exposes the side of one vehicle to the front of another, which can result in substantial damage if the vehicle rolls forward (see figure).



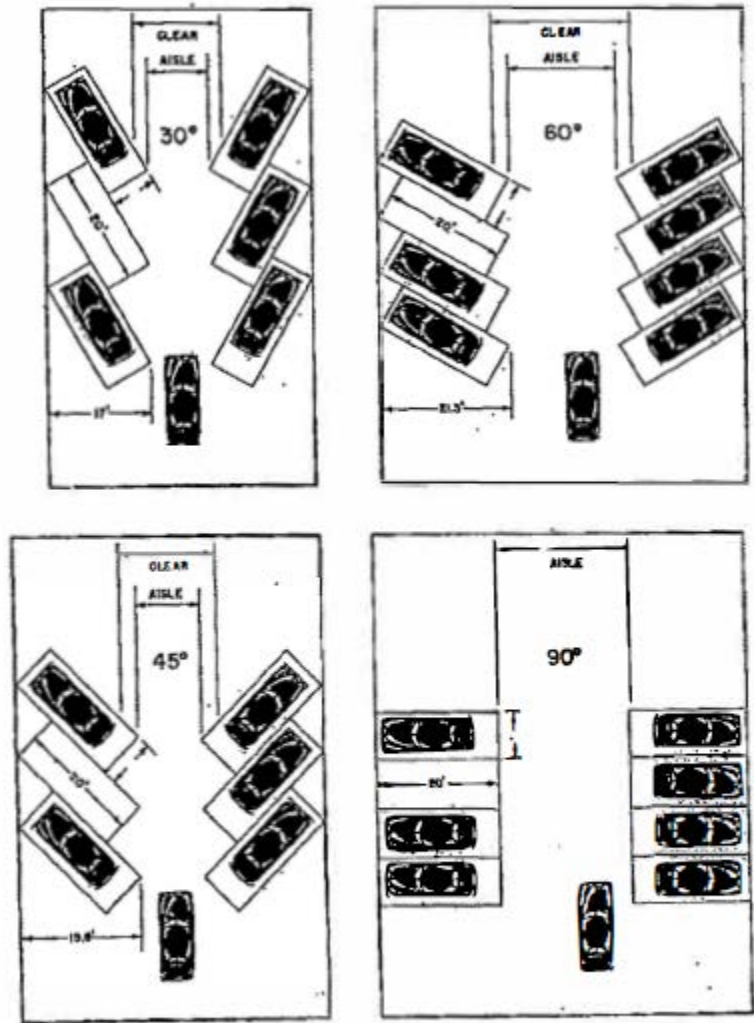
- (d) **Aisle widths:** Parking driveway maneuvering aisle width requirements vary according to the width and length of parking spaces and the angle of parking. For a single row of ninety (90) degree head-in parking, the minimum depth for a parking space plus the width of the aisle shall be forty-two (42) feet. For two (2) rows of ninety (90) degree head-in parking using the same aisle, the minimum depth for parking spaces plus the width of the aisle shall be sixty-two (62) feet (i.e., curb to curb) for nine (9) foot-wide spaces and sixty (60) feet (i.e., curb to curb) for ten (10) foot-wide spaces.

### **Section 12.3.9. Compact Parking Spaces**

Compact parking spaces may be used in parking areas when more than twenty (20) parking spaces are required, provided that the areas for compact parking are clearly marked and not more than twenty (20) percent of the number of parking spaces provided in the entire parking area is designated compact auto parking. In parking lots of 75 or more spaces, employee and overflow customer parking may be designed with compact parking spaces at a rate of fifty (50) percent of the number of parking spaces provided in the portion of the parking lot devoted to such parking areas.

### Section 12.3.10. Angled Parking

The Zoning Administrator may authorize parking lot designs that utilize 75, 60, and 45 degree-angled parking spaces with one-way or two-way aisles. If such angled parking is used, parking lots shall comply with acceptable parking dimensional standards for aisle widths as specified by the Institute of Transportation Engineers or other reputable source approved by the Zoning Administrator.



Source: De Chiara, Joseph, and Lee E. Koppelman. 1984. *Time-Saver Standards for Site Planning*. Figure 6.205, p. 663. New York: McGraw-Hill.

### Section 12.3.11. Stacking Spaces for Drive-Through Facilities.

Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with this Section. Stacking spaces shall begin at the window or communication/mechanical device (e.g., order board) first encountered by the vehicle user. Financial institutions with drive-through windows, car washes (automated or staffed facilities), drive-through photo finishing booths, drive-through coffee sales facilities, and any other uses with drive-through facilities shall provide three (3) stacking spaces for each window or drive-through service facility. Restaurants with drive-through facilities shall at least provide five (5) stacking spaces for each window or drive-through service facility, free and clear of access easements if any and drives required for on-site circulation.

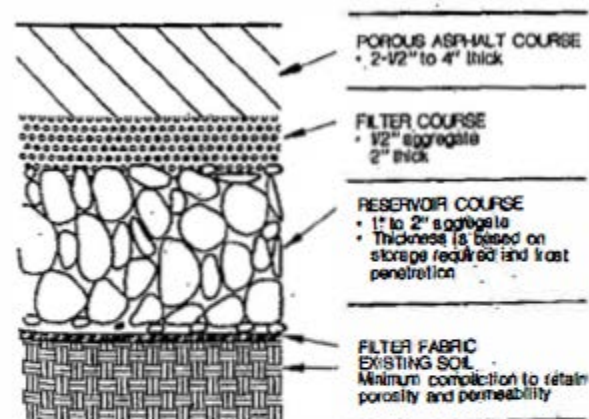


The following general standards shall apply to all stacking spaces and drive-through facilities:

- (a) Stacking spaces and lanes for drive-through stations shall not impede on and off site traffic movements, shall not cross or pass through off-street parking areas, and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.
- (b) Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
- (c) All drive-through facilities shall be provided with a bypass lane with a minimum width of ten (10) feet.

### Section 12.3.12. Improvement Requirements

- (a) **Drainage:** Parking and loading areas shall be properly graded if necessary but in all cases drained so as to prevent damage to abutting properties or public streets. Water quality effectiveness and character of the zoning district shall be considerations in determining curbing requirements.
- (b) **Surfacing:** Parking and loading areas shall be surfaced with concrete, asphaltic concrete, asphalt (see details in illustration in this Section) or other dust-free surface; provided, however, that porous pavement parking spaces and grass pavers may be substituted for standard dust free pavements subject to the approval of the Zoning Administrator. Aggregate (gravel) surface may be considered appropriate in exurban and rural areas. Water quality effectiveness and character of the zoning district shall be considered in determining surfacing requirements.



**Typical Porous Paving Section**

Source: Parker, Dave, et al. 2002. "Design of Stormwater Management Facilities." In The Dewberry Companies, *Land Development Handbook* (2<sup>nd</sup> ed.). Figure 22.37, p. 525. New York: McGraw-Hill.

## PAVING OVER MILLED SURFACE

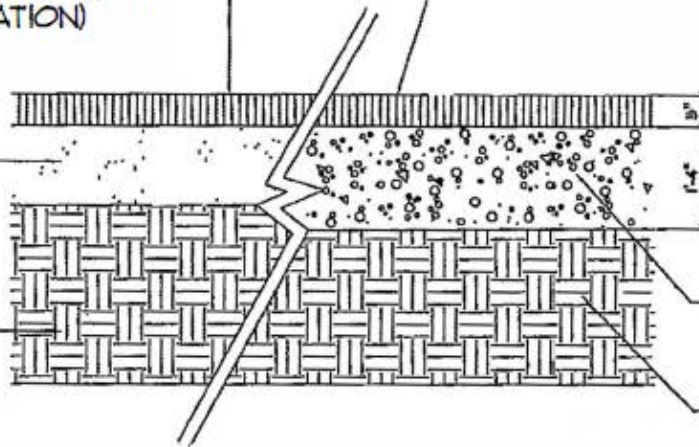
## PAVING OVER SOIL

9.5MM, SUPERPAVE,  
RECYCLED ASPHALTIC  
CONCRETE, GP2 (VARIABLE  
WIDTH, NO LESS THAN 2 1/2" TO  
PROPOSED ELEVATION)

9.5MM, SUPERPAVE,  
RECYCLED ASPHALTIC  
CONCRETE, GP2

REMAINING  
PAVEMENT  
FOLLOWING  
MILLING

COMPACTED  
SUBGRADE



GDOT GRADED  
AGGREGATE  
BASE  
COMPACTED  
SUBGRADE

## ASPHALT PAVING DETAIL

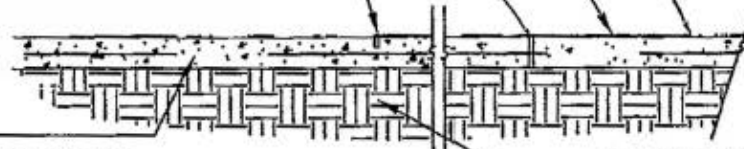
BROOM FINISH PER  
DETAIL 5, THIS SHEET

POURED CONCRETE

1/2" EXPANSION JOINT  
50' APART

1/4" x 1" DEEP CONTROL JOINT  
W/1/8" R.

6x6 WWM  
AT CONCRETE DRIVE  
PAYEMENT ONLY

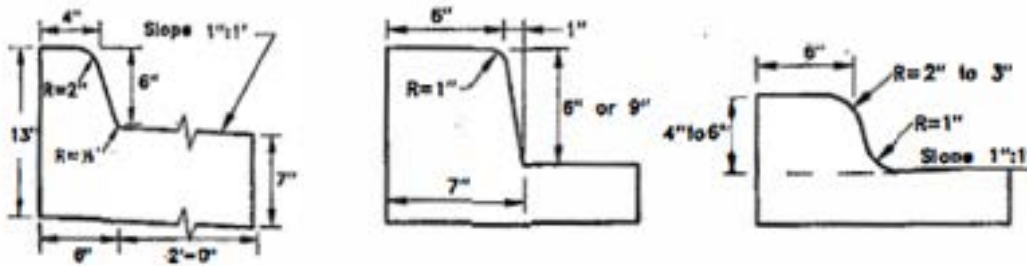


COMPACTED SUBGRADE

4" SIDEWALK PVT.  
6" DRIVEWAY PVT.

## CONCRETE PAVING DETAIL

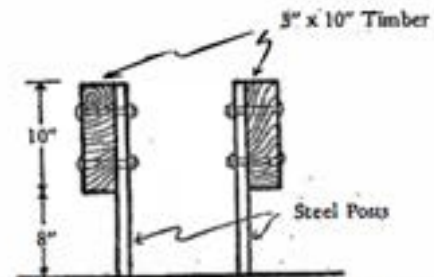
- (c) **Curbs or stops:** Curbing shall be installed as required by the Zoning Administrator when considered necessary for drainage, although water quality effectiveness and character of the zoning district shall be considerations in determining curbing requirements.



Source: Tanner, J. Thomas. 2002. "Suburban Street Design." In The Dewberry Companies, *Land Development Handbook* (2<sup>nd</sup> ed.). Figure 20.10, p. 370. New York: McGraw-Hill.

**Vertical Curb Details**

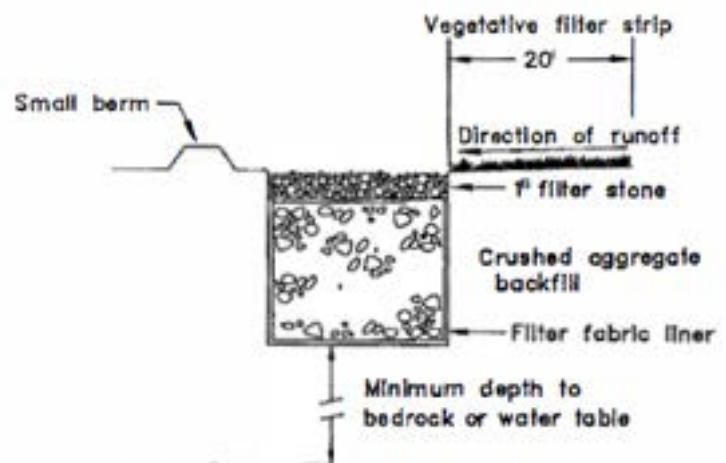
- (d) **Barriers:** Parking space bumpers made of timber on steel posts may be used (see figure) in exurban and rural areas to maintain character of the zoning district. The height should be set to meet car bumpers.



Source: De Chiers, Joseph, and Lee E. Koppelman. 1984. *Time-Saver Standards for Site Planning*. Figure 6.215, p. 673. New York: McGraw-Hill.

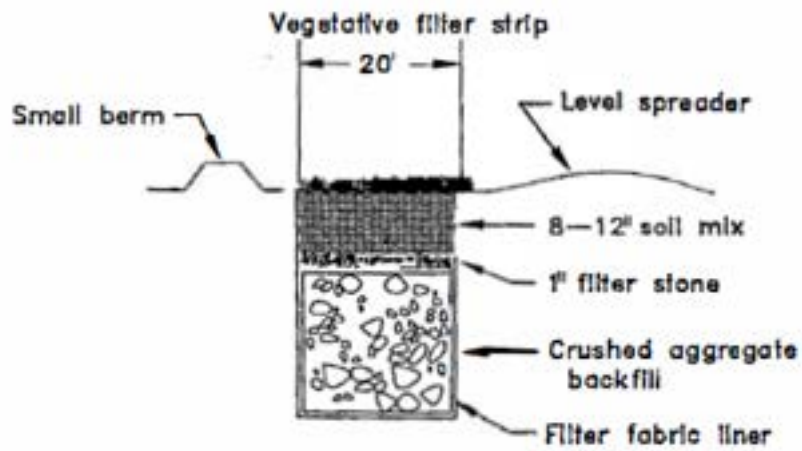
### Section 12.3.13. Stormwater Requirements for Large Parking Lots

Parking lots covering area of one-half (1/2) acre or more shall not be permitted to divert all stormwater to a retention or detention basin and shall be required by the Zoning Administrator to incorporate one or more of the techniques illustrated in this Section, or other approved alternative, to increase infiltration (provide opportunity for groundwater recharge) and to filter the stormwater collected from parking lots.

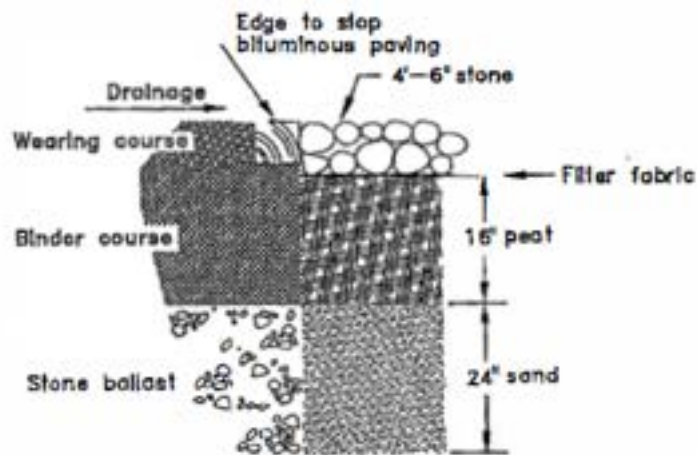


Source: Russ, Thomas. 2002. *Site Planning and Design Handbook*. Figure 6-11, p. 228 and Figure 6-14, p. 230. New York: McGraw-Hill.

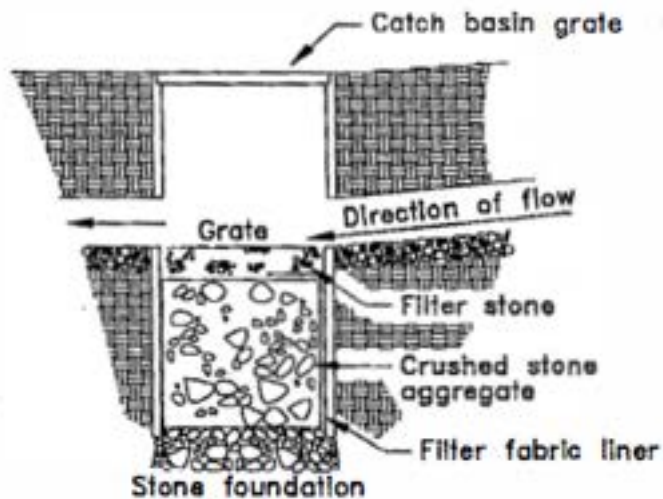
**Infiltration Recharge Basin Detail**



**Vegetative Filter Strip Detail**



**Sand Filter Strip Detail**



**Catch Basin Infiltrator Detail**

Source: Russ, Thomas. 2002. *Site Planning and Design Handbook*. Figure 6-14, p. 230, Figure 6-13, p. 229, and Figure 6-10, p. 227. New York: McGraw-Hill.



## **CHAPTER 12.4**

### **OFF-STREET PARKING REDUCTION**

Section 12.4.1.	Reduction for Off-Site Arrangements
Section 12.4.2.	Reduction for Mixed or Joint Use of Parking Spaces
Section 12.4.3.	Reduction for Demand Management
Section 12.4.4.	Reduction for On-Street Parking

#### **Section 12.4.1. Reduction for Off-Site Arrangements**

Off-site parking may be used in combination to meet minimum parking space requirements; a reduction of required off-street parking spaces on a given site may be permitted by the Zoning Administrator in cases where additional off-street, off-site, parking area in sufficient quantity and availability in conformity with this Article compensates for the reduction, subject to the following:

- (a) The property is under one ownership, or a valid agreement exists between the two property owners for use of the parking area.
- (b) Off-site parking shall not exceed fifty (50) percent of the required parking for a building or buildings, except in the CBD zoning district, where 100 percent is permitted.
- (c) Off-site parking shall be located within eight hundred (800) feet of the building or buildings in which it is leased to serve, or 1500 feet in the CBD zoning district.
- (d) Lease agreements, as applicable, must be of sufficient duration to serve the use or uses proposed to be partially served by the off-site leased parking.
- (e) Safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided from the structure or use to the off-site parking lot.

#### **Section 12.4.2. Reduction for Mixed or Joint Use of Parking Spaces**

When more than one use is provided on a lot, and such uses operate more or less simultaneously, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses computed separately. The Zoning Administrator may authorize a reduction in the total number of required off-street parking spaces for two or more uses jointly providing parking facilities when their respective hours of need of maximum parking do not normally overlap, provided that the developer submits sufficient data to demonstrate that the hours of maximum demand for parking at the respective uses do not normally overlap. The required spaces assigned to one use may not be assigned to another use at the same time, except that one-half (1/2) of the parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

### **Section 12.4.3. Reduction for Demand Management**

The Zoning Administrator may in individual cases administratively authorize a proportional reduction in the required minimum number of parking spaces for office, institutional, industrial, and public uses with 50 or more employee parking spaces, if a formal carpool or van pool program is instituted. For purposes of this Section, carpool is defined as two or more persons per car, and vanpool is defined as five or more persons per van. Any carpool or vanpool program shall provide at least five (5) spaces reserved for carpool or vanpool vehicles and shall be clearly marked "Reserved - Carpool/Vanpool Only" through signage or pavement markings. Designated carpool/vanpool spaces shall be the closest employee parking spaces to the building entrance normally used by employees except for any handicapped parking spaces provided. The applicant must agree that the parking preferences will be enforced.

### **Section 12.4.4 Reduction for On-Street Parking**

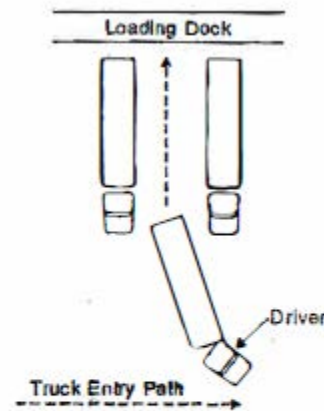
The Zoning Administrator may, in individual cases administratively authorize a reduction in the minimum number of parking spaces for projects that are directly served by on-street parking.

## CHAPTER 12.5 OFF-STREET LOADING

Section 12.5.1.	Off-Street Loading Required
Section 12.5.2.	Loading Area Specifications
Section 12.5.3.	Loading Area Locations
Section 12.5.4.	Minimum Number of Off-Street Loading Spaces Required

### Section 12.5.1. Off-Street Loading Required

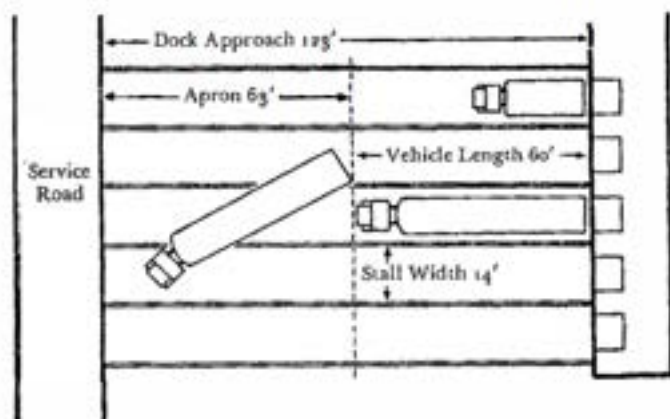
On the same lot with every building, structure or part thereof, erected or occupied for manufacturing, storage, warehouse, truck freight terminal, department store, wholesale store, grocery supermarket, hotel, hospital, mortuary, dry cleaning plant, retail business, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained adequate space for the standing, loading, and unloading of such materials to avoid undue interference with public use of streets, alleys, and private or public parking areas.



Source: Stover, Vergil G., and Frank J. Koepke. 2002. *Transportation and Land Development* (2<sup>nd</sup> Ed.). Washington, DC: Institute of Transportation Engineers. Figure 10-5, p. 10-9.

### Section 12.5.2. Loading Area Specifications

Unless otherwise approved by the Zoning Administrator, loading spaces shall be a minimum of fourteen (14) feet wide, forty (40) feet long, with fourteen (14) feet of height clearance. When the development requires loading and unloading by full-size tractor-trailers, loading spaces shall be sixty (60) feet long with a sixty-three (63) foot apron, for a total approach zone of 123 feet.



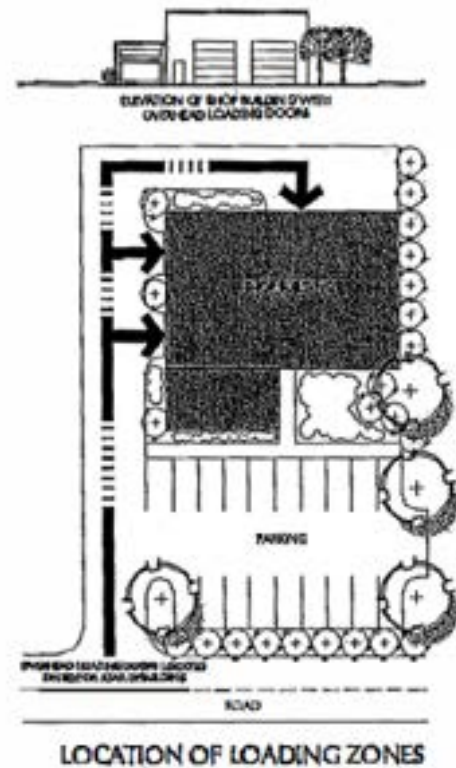
Source: De Chiara, Joseph, and Lee E. Koppelman. 1984. *Time-Saver Standards for Site Planning*. Figure 6.188, p. 652. New York: McGraw-Hill.

### Section 12.5.3. Loading Area Locations

Loading areas shall be located to the rear of the building unless site design precludes a rear location, in which case loading shall be to the side of a building. Loading areas shall not be permitted within front yards.

### Section 12.5.4. Minimum Number of Off-Street Loading Spaces Required

One off-street loading space shall be provided for the first 10,000 square feet of gross floor area or fractional part thereof for light industrial use and one off-street loading space for the first 5,000 square feet of gross floor area or fractional part thereof for retail or other nonindustrial use for which a loading space is required. One additional space shall be required for each additional 25,000 square feet of gross floor area or fractional part thereof for light industrial use and for each additional 10,000 square feet for retail or other nonindustrial use.





## ARTICLE 13

### SOIL EROSION AND SEDIMENTATION CONTROL

CHAPTER 13.1	DEFINITIONS
CHAPTER 13.2	GENERAL PROVISIONS
CHAPTER 13.3	MINIMUM REQUIREMENTS AND BEST MANAGEMENT PRACTICES
CHAPTER 13.4	APPLICATION AND PERMIT PROCESS
CHAPTER 13.5	INSPECTION, ENFORCEMENT, VIOLATION, PENAL TIES

#### CHAPTER 13.1

##### DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Article, unless otherwise specifically stated:

**Best Management Practices (BMPs):** A collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control.

**Board:** The Board of Natural Resources.

**Buffer:** The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

**Commission:** The State Soil & Water Conservation Commission.

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

**Department:** The Georgia Department of Natural Resources.

**Director:** The Director of the Environmental Protection Division of the Department of Natural Resources.

**District:** The Soil and Water Conservation District with jurisdiction.

**Division:** The Environmental Protection Division of the Department of Natural Resources.

**Drainage structure:** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.

**Elevation:** The vertical height or heights above a datum plane which for purposes of this Chapter shall be the Mean Sea Level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.

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

**Erosion and sedimentation control plan:** A plan for the control of soil erosion and sedimentation resulting from a land- disturbing activity. Also known as the "plan".

**Existing grade:** The elevation of the ground surface at any given point prior to cutting or filling.

**Fill:** A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

**Finished grade:** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

**Grading:** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

**Ground elevation:** The original elevation of the ground surface prior to cutting or filling.

**Land-disturbing activity:** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in this Article.

**Larger common plan of development or sale:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this definition, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

**Local Issuing Authority:** The Town of Maysville.

**Natural drainage:** Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.

**Natural ground surface:** The ground surface in its original state before any grading, excavation or filling.

**Nephelometric Turbidity Units (NTU):** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

**Operator:** The party or parties that have:

- (a) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- (b) day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.

**Permit:** The authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

**Person:** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this State, any interstate body or any other legal entity.

**Project:** The entire proposed development project regardless of the size of the area of land to be disturbed.

**Qualified personnel:** Any person who meets or exceeds the education and training requirements of O.C.G.A. 12-7-19.

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

**Sediment:** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

**Sedimentation:** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

**Soil and Water Conservation District approved plan:** An erosion and sedimentation control plan approved in writing by the soil and water conservation district with jurisdiction.

**Stabilization:** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

**State General Permit:** The National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of O.C.G.A. Code Section 12-5-30.

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

**Structural erosion and sedimentation control practices:** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

**Vegetative erosion and sedimentation control measures:** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (a) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (b) Temporary seeding, producing short-term vegetative cover; or (c) Sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication *Manual for Erosion and Sediment Control in Georgia*.

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

**Wetlands:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

## CHAPTER 13.2

### GENERAL PROVISIONS

Section 13.2.1.	Exemptions
Section 13.2.2.	General Provisions
Section 13.2.3.	Time Penalty for Development after Exemption

#### Section 13.2.1. Exemptions

This Chapter shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (a) **Surface mining:** Surface mining, as the same is defined in O.C.G.A. 12-4-72, "Mineral Resources and Caves Act";
- (b) **Quarrying:** Granite quarrying and land clearing for such quarrying;
- (c) **Minor activities:** Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion;
- (d) **Single-family residences:** The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this Section; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in this Article. The minimum requirements of this Article and the buffer zones provided by this Section shall be enforced by the local issuing authority;
- (e) **Agricultural operations:** Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (f) **Forestry:** Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in this Article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (g) **Federally sponsored projects:** Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

- (h) **Projects less than one acre:** Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "State Waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the Local Issuing Authority from regulating any such project which is not specifically exempted by this Section;
- (i) **State projects:** Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (j) **Electrical utilities:** Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service\_ Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United states engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (k) **Public reservoirs:** Any public water system reservoir.

### Section 13.2.2. General Provisions

Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those and-disturbing activities which are not exempted by this Article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of this Article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities, and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.

### Section 13.2.3. Time Penalty for Development After Exemption

- (a) **Finding:** The Town finds that there is potential for abuse of the agricultural and forestry exemptions provided in this Chapter. Property owners, in order to avoid the development permit and soil erosion and sedimentation control requirements of this Article and other provisions of this Land Use Management Code, may attempt to undertake clearcutting of the property under the agricultural or forestry exemption of this Chapter and then immediately or within a short period of time thereafter file for development approval which would have required detailed plans for the grading.
- (b) **Time limit established for certain development after exemption:** To guard against such abuse, when the owner of property clears or grades land pursuant to an agricultural or forestry exemption as provided in this Chapter, no residential subdivision involving the installation of streets and no development other than that associated with agriculture, forestry, or a single dwelling shall be permitted for a period of three (3) years from the date such exempted clearing or grading took place, as determined by the Zoning Administrator.
- (c) **Development applications refused:** The Zoning Administrator shall not be authorized to process and shall not accept an application for residential subdivision development involving the installation of streets or any application for development other than that associated with agriculture, forestry, or a single dwelling, until the expiration of said three-year period, and to this end shall withhold development or building permit approval for said developments. Development subsequent to clearing or grading completed under an agricultural or forestry exemption under the terms of this Chapter shall require compliance with all applicable provisions of this Article prior to issuing a development permit or building permit for such specified development.

## **CHAPTER 13.3**

### **MINIMUM REQUIREMENTS AND BEST MANAGEMENT PRACTICES**

Section 13.3.1.	Permit Required
Section 13.3.2.	Best Management Practices Required
Section 13.3.3.	Reference to Erosion Control Manual
Section 13.3.4.	General Regulations
Section 13.3.5.	Additional Grading Specifications
Section 13.3.6.	Requirements for Fill Material
Section 13.3.7.	Education and Certification

#### **Section 13.3.1. Permit Required**

No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the local issuing authority without first obtaining a development permit from local issuing authority, if required, to perform such activity.

An application for a development permit, when required, shall be made to the Zoning Administrator in accordance with Chapter 23.1 of this Land Use Management Code. The grading plans shall be prepared by, or under the direction of, a registered civil engineer for all applications where the total amount of materials graded is more than 2,500 cubic yards. Grading plans shall show existing and proposed contour lines at an interval of no more than five (5) feet. Grading plans shall outline the areas which are required to remain undisturbed (i.e., tree protection areas, buffers, etc.) and shall indicate all protective measures such as fencing or staking to be placed surrounding such areas. The Zoning Administrator may require additional information pertaining to the specific site and any other relevant information needed in order to assess potential hazards associated with the proposed grading activities and to determine whether a development permit or approval should be issued. Grading shall be done in accordance with the lines and grades shown on the approved grading plan.

#### **Section 13.3.2. Best Management Practices Required**

Best management practices as set forth in this Article or referred to herein shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the Director of the Environmental Protection Division of the Georgia Department of Natural Resources or to any other allegation of noncompliance with this Article or Chapter or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this Chapter, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the *Manual for Erosion and Sediment Control in Georgia* specified in O.C.G.A. 12- 7-6 subsection (b).

#### **Section 13.3.3. Reference to Erosion Control Manual**

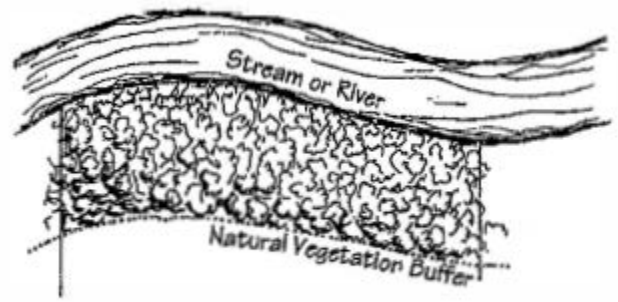
The regulations in this Article require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the *Manual for Erosion and Sediment Control in Georgia* published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted.



#### **Section 13.3.4. General Regulations**

- (a) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
- (b) Cut-fill operations must be kept to a minimum;
- (c) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
- (d) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (e) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (f) Disturbed soil shall be stabilized as quickly as practicable;
- (g) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (h) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (i) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et. seq.;
- (j) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (k) Cuts and fills may not endanger adjoining property;
- (l) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (m) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (n) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in this ordinance;

- (o) Except as otherwise specifically provided in this Chapter or where more restrictive requirements exist in this Land Use Management Code, there is established a minimum fifty (50) foot wide buffer along the banks (both sides) of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow. The required 50-foot-wide buffer along the banks of all state waters may be reduced through local variance procedures through proper application and for good cause shown.



No buffer required by this Chapter and Section shall be reduced below 25 feet in width, unless the Director of the Georgia Environmental Protection Division determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the Director pursuant to O.C.G.A. 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented. The following requirements shall apply to any such buffer: No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and the buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

- (p) Nothing contained in this Chapter shall prevent a local issuing authority from adopting and enforcing regulations which require stream buffers that exceed the minimum requirements in this Article.
- (q) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Article or the terms of the permit.

### **Section 13.3.5. Additional Grading Specifications**

- (a) Abrupt or unnatural-appearing grading design shall not be allowed.
- (b) Grading on new project sites shall blend with the contours of adjacent properties with minimum alteration of the natural topography necessary to accomplish the development.
- (c) If grading is done for development that will not occur immediately, then the site shall be grassed within thirty (30) days of completion of grading.
- (d) Final graded slopes shall be no steeper than is safe for the intended use. The maximum slopes for cut or fill shall be 2:1 (two feet of horizontal run for each foot of rise or fall), except as approved by the Zoning Administrator.
- (e) When a cut is made in rock that requires blasting, the slope may be steeper if presplitting is employed and upon submission of a geotechnical report which substantiates the integrity of the rock in the steeper condition, subject to the review and approval of the Zoning Administrator. No blasting shall occur without a valid permit issued by the Fire Marshal.
- (f) Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other forms of pollution in a watercourse.
- (g) All grading shall occur entirely within the site unless encroachment on adjoining property is shown on grading plans and the applicant provides proof of ownership, an easement authorizing the encroachment, or a letter signed by the owner of the adjoining property which authorizes such temporary encroachments during construction on the adjoining property.
- (h) Construction and development plans calling for excessive cutting and filling may be refused a development permit by the Zoning Administrator if it is determined that the proposed land use can be supported with less alteration of the natural terrain.

### **Section 13.3.6. Requirements for Fill Material**

Materials used in fills shall comply with the following requirements:

- (a) Material used in filling shall be appropriate to the site and the intended use of that portion of the site.
- (b) Fill shall be composed of earth materials. Any rock or other similar irreducible material used in a fill shall be of a maximum diameter of 12 inches and shall compose not more than 20 percent of the total fill material.
- (c) Topsoil shall not be used as a fill material except that the upper 12 inches of a fill site may be covered with topsoil.
- (d) No frozen or thawing material shall be used in a fill.
- (e) No solid waste, hazardous waste or hazardous material may be used in a fill.
- (f) No organic material shall be used in a fill unless approved by the Zoning Administrator.

### **Section 13.3. 7. Education and Certification**

All persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the State Soil & Water Conservation Commission in consultation with the State Environmental Protection Division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

## CHAPTER 13.4

### APPLICATION AND PERMIT PROCESS

Section 13.4.1.	Responsibilities
Section 13.4.2.	Permit Application Requirements
Section 13.4.3.	General Plan Compliance Requirements
Section 13.4.4.	Data Required for Site Plan
Section 13.4.5.	Permits

#### Section 13.4.1. Responsibilities

The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They shall review this Article and other Articles of this Land Use Management Code which regulate the development of land within the jurisdictional boundaries of the local issuing authority.

#### Section 13.4.2. Permit Application Requirements

- (a) **Submission:** The application for a permit shall be submitted to the local issuing authority and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary.
- (b) **Minimum requirements:** Said plans shall include, as a minimum, the data specified in this Article. Soil erosion and sedimentation control plans shall conform to the provisions of this Article.
- (c) **Copies of plans:** Applications for a permit will not be accepted unless accompanied by the local issuing authority's specified number of copies of the applicant's soil erosion and sedimentation control plans.
- (d) **Certification by preparer of plan:** All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the Board of Natural Resources.
- (e) **Local fee:** A fee, in the amount of \$100.00 shall be charged for each acre or fraction thereof in the project area.
- (f) **Additional fee:** In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development.
- (g) **Payment of fee:** All applicable fees shall be paid prior to issuance of the development permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority.

- (h) **District review and approval required:** Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to erosion and sedimentation control plan. A District shall approve or disapprove a plan within 35 days of receipt. Failure of a District to act within 35 days shall be considered an approval of the pending plan. The results of the District review shall be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the District, and any variances required and bonding, if required as per this Article, have been obtained. Such review will not be required if the local issuing authority and the District have entered into an agreement which allows the local issuing authority to conduct such review and approval of the plan without referring the application and plan to the District.
- (i) **Denial for prior violations by permit applicant:** If a permit applicant has had two or more violations of previous permits, this Article or its predecessor regulations, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the local issuing authority may deny the permit application.
- (j) **Bond:** The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit.
- (k) **Call of bond for non-compliance:** If the applicant does not comply with this Article or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply until after a hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

### Section 13.4.3. General Plan Compliance Requirements

Plans shall comply with the following requirements:

- (a) **Manual Adopted by Reference:** Plans must be prepared to meet the minimum requirements as contained in this Article. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the *Manual for Erosion and Sediment Control in Georgia*, published by the State Soil and Water Conservation Commission as a guide; or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The *Manual for Erosion and Sediment Control in Georgia* is hereby incorporated by reference into this Article.
- (b) **Interrelationships:** The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm water management facilities, local ordinances including this Land Use Management Code, and State laws.

#### **Section 13.4.4. Data Required for Site Plan**

The following information shall be shown on site plans required by this Article:

- (a) Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
- (b) Description of existing land use at project site and description of proposed project.
- (c) Name, address, and phone number of the property owner.
- (d) Name and phone number of 24-hour local contact who is responsible for erosion and sedimentation controls.
- (e) Size of project, or phase under construction, in acres.
- (f) Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities."
- (g) Stormwater and sedimentation management systems-storage capacity, hydrologic study, and calculations, including off-site drainage areas.
- (h) Vegetative plan for all temporary and permanent vegetative measures, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- (i) Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- (j) Maintenance statement - "Erosion and sedimentation control measures will be maintained at all times. If full implementation of the approved plan does not provide for effective erosion and sediment control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source."
- (k) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. All persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements as developed by the Commission pursuant to O.C.G.A. 12-7-20.
- (l) Graphic scale and north point or arrow indicating magnetic north.
- (m) Vicinity maps showing location of project and existing streets.
- (n) Boundary line survey.
- (o) Delineation of disturbed areas within project boundary.
- (p) Scale shall be 1 inch = 100 ft. or larger scale.
- (q) Existing and planned contours, with an interval in accordance with the following:

Ground Slope	Contour Interval (Feet)
Flat 0-2%	0.5 or 1
Rolling 2-8%	1 or 2
Steep 8 % +	2, 5 or 10

- (r) Adjacent areas and feature areas such as streams, lakes, wetlands, floodplains, residential areas, etc. which might be affected should be indicated on the plan.
- (s) Proposed structures or additions to existing structures and paved areas.
- (t) Delineate the 25-foot and 50-foot horizontal buffer adjacent to state waters.
- (u) Location of erosion and sedimentation control measures and practices using coding symbols from the *Manual for Erosion and Sediment Control in Georgia*, Chapter 6.
- (v) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

#### Section 13.4.5. Permits

- (a) **Time frame:** Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary.
- (b) **District approval, variances, and bonding:** No development permit shall be issued by the local issuing authority unless the erosion and sedimentation control plan has been approved by the District (except as otherwise provided by this Article) and the local issuing authority has affirmatively determined that the plan is in compliance with this Article and the Land Use Management Code generally, any variances required by this Article or Land Use Management Code generally are obtained, bonding requirements, if necessary are met, and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
- (c) **Separate permit for phases:** If the tract is to be developed in phases, then a separate permit shall be required for each phase.
- (d) **Suspension, revocation, or modification:** The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this Article or the Land Use Management Code.
- (e) **Notification to successor:** A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.



## **CHAPTER 13.5**

### **INSPECTION, ENFORCEMENT, VIOLATIONS, PENALTIES**

Section 13.5.1.	Periodic Inspection
Section 13.5.2.	Responsibilities of Permittees
Section 13.5.3.	Notice for Failure to Comply
Section 13.5.4.	Violation for Failure to Comply
Section 13.5.5.	Authority to Conduct Investigations
Section 13.5.6.	Division Review and Revocation of Certification
Section 13.5.7.	Director's Remedies
Section 13.5.8.	Failure to Obtain a Permit for Land-Disturbing Activity
Section 13.5.9.	Stop Work Orders
Section 13.5.10.	Bond Forfeiture
Section 13.5.11.	Monetary Penalties
Section 13.5.12.	Administration Remedies
Section 13.5.13.	Judicial Review
Section 13.5.14.	Liability

#### **Section 13.5.1. Periodic Inspection**

The local issuing authority will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate both primary and secondary permittees as such terms are defined in the state general permit.

#### **Section 13.5.2. Responsibilities of Permittees**

Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities.

#### **Section 13.5.3. Notice for Failure to Comply**

If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this Article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed.

#### **Section 13.5.4. Violation for Failure to Comply**

If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this ordinance.

A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any development permit issued by a local issuing authority or of any state general permit issued by the Division pursuant to subsection (t) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Director of the Environmental Protection Division. This Section shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres. Failure to properly design, install, or maintain best management practices shall constitute a violation of any development permit issued by a local issuing authority or of any state general permit issued by the State Environmental Protection Division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.

#### **Section 13.5.5. Authority to Conduct Investigations**

The local issuing authority shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this Article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities. No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the Commission, the District, or Division, who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

#### **Section 13.5.6. Division Review and Revocation of Certification**

If the local issuing authority is notified in writing by the Division after a periodic review of regulations and practices that the local issuing authority has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7 (e), the local issuing authority shall have 30 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the local issuing authority does not take necessary corrective action within 30 days after notification by the Division, the Division may revoke the certification as a local issuing authority.

#### **Section 13.5.7. Director's Remedies**

The Director of the Georgia Environmental Protection Division may require, in accordance with regulations adopted by the Board of Natural Resources, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.

### **Section 13.5.8. Failure to Obtain a Permit for Land-Disturbing Activity**

If any person commences any land-disturbing activity requiring a development permit as prescribed in this Article without first obtaining said permit, the person shall be subject to revocation of his or her business license, work permit, or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

### **Section 13.5.9. Stop Work Orders**

- (a) For the first and second violations of the provisions of this article , the Director or the local issuing authority shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the Director or the local issuing Authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the Director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
- (b) For a third and each subsequent violation, the Director or the local issuing authority shall issue an immediate stop-work order;
- (c) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- (d) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the Director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the Director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

### **Section 13.5.10. Bond Forfeiture**

If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this Article and, in addition to other penalties, shall be deemed to have forfeited his or her performance bond, if required to post one under the provisions of this Article. The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

### **Section 13.5.11. Monetary Penalties**

Any person who violates any provisions of this Article, or any permit condition or limitation established pursuant to this Article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Director issued as provided in this Article shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this Article, notwithstanding any provisions in any City charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

### **Section 13.5.12. Administrative Remedies**

The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the local issuing authority within thirty (30) days after receipt by the local issuing authority of written notice of appeal.

### **Section 13.5.13. Judicial Review**

Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his or her administrative remedies, shall have the right to appeal de novo to the Superior Court of the County having jurisdiction.

### **Section 13.5.14. Liability**

Neither the approval of a plan under the provisions of this Article, nor the compliance with provisions of this Article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or District for damage to any person or property. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Article or the terms of the permit. No provision of this Article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby and this Article.