Alternatives to Conventional Zoning

Prepared for:

State of Georgia
Small Towns and Communities

Prepared by:

Office of Coordinated Planning
Planning and Environmental Management Division

GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS
60 Executive Park South, N.E.
Atlanta, Georgia 30329-2231

April, 2002

PHASE 2 – December 2003

Acknowledgements

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April 5, 2002

VIA TELECOPIER (404) 679-0646
AND FIRST CLASS MAIL

Mr. Rick Brooks, Director
Planning & Environmental Management Division
Department of Community Affairs
60 Executive Park South NE
Atlanta, GA 30329-2231

RE: Legal Review on Alternatives to Conventional Zoning for Georgia's Small Communities
Our File No.: 590.1

Dear Mr. Brooks:

At the request of the Department of Community Affairs, I have conducted a review of the alternatives to conventional zoning for Georgia's small communities. It is my considered legal opinion that the final version of alternatives to conventional zoning is consistent with Georgia law and legally sustainable in its entirety and that it does not violate any statutory or constitutional laws which apply to the regulation of land use by a local government.

Thank you for the opportunity to review this fine work.

Very truly yours,

JENKINS & OLSON, P.C.

Frank E. Jenkins, III

FEJ/bje

Legal Review

Julian Conrad Juergensmeyer
Professor of Law and Planning
Post Office Box 4037
Atlanta, Georgia 30302-4037

September 30, 2003

Ms. Deborah Miness, AICP
Assistant Director
Office of Coordinated Planning
Georgia Department of Community Affairs
60 Executive Park South, NE
Atlanta, Georgia 30329-2231

RE: Legal Review of Model Land Use Management Code (Alternatives to Conventional Zoning), Phase 2

Dear Ms. Miness:

At the request of the Georgia Department of Community Affairs, I have conducted a review of the phase 2 modules of the Model Land Use Management Code (Alternatives to Conventional Zoning), as listed below (phase 1 modules were reviewed by Frank E. Jenkins, III of the law firm Jenkins & Olson, P.C.).

§ 2-5	Alternative Street and Pedestrian System Standards
§ 2-6	Bicycle Facility Specifications
§ 2-7	Hillside Development
§ 3-8	Planned Unit Development
§ 3-9	Landscaping and Buffers
§ 3-10	Residential Infill Development
§ 4-8	Scenic Corridor Overlay District
§ 4-9	Rural/Suburban Arterial Corridor Overlay
§ 6-8	Interim Development Regulations
§ 7-6	Traffic Impact Studies

Changes to earlier drafts of these ordinances have been made based on any legal considerations that I raised. It is my opinion that the final ordinances or ordinance components are consistent with federal and state law in regard to the regulation of land use by local governments.

Thank you for the opportunity to review this fine work.

Very Truly Yours,

Julian Conrad Juergensmeyer

LEGAL REVIEW FOR PHASE II

TABLE OF CONTENTS

§2-1 ENVIRONMENTAL REGULATIONS (cont'd)

§2-1 ENVIRONMENTAL REGULATIONS (cont'd)

§2-2 SUBDIVISIONS AND LAND DEVELOPMENT

§3-7 SIGNS (cont'd)

PART FOUR: PROVISIONS FOR AGRICULTURAL/RURAL AREAS

§ 7-6 (PHASE 2) TRAFFIC IMPACT STUDIES (cont'd)

LIST OF FIGURES

FIGURE	TITLE (cont'd)
2-7-3.6	U.S.G.S. Quadrangle Map
2-7-3.6.1	Slope
2-7-9.2/.3	Cut and Fill Slopes
2-7-17.3	Building Pads
2-7-18.1	Residence that "Steps Down" the Hillside
2-7-18.2	Roofs
3-2-5.4.1	Performance Standard for Building Height: Slope/Setback
3-4-2.1	Example of a Critical Root Zone
3-4-3.3.1	Examples of Canopy Cover (%)
3-4-3.5.1	Tree Protection Device Detail
3-9-1	Option 1, Landscape Adjacent to Street Right-of-Way
3-9-2	Option 2, Landscape Adjacent to Street Right-of-Way
3-9-3	Option 3, Landscape Adjacent to Street Right-of-Way
3-9-4	Option 4, Landscape Adjacent to Street Right-of-Way
3-9-5	Option 5, Landscape Adjacent to Street Right-of-Way
3-9-6	Perimeter Landscape Strip
3-9-7	Illustrative Interior Parking Lot Landscaping Island
3-9-8	Option 1, Landscape between Nonresidential Building and Street Right-of-Way
3-9-9	Option 2, Landscape between Nonresidential Building and Street Right-of-Way
3-9-10	Option 3, Landscape between Nonresidential Building and Street Right-of-Way
3-9-14	Plant Hardiness Zones for Georgia
3-10-2.1	Accessory Apartment, Detached
3-10-2.2	Building Frontage and Build-to Line
3-10-2.3	Dwelling, Two Family Duplex
3-10-2.4	Infill Site and Established Residential Area
3-10-2.5	Zero Lot Line
3-10-6.3	Density Bonus (Reduced Lot Size) For Open Space Dedication
3-10-6.4	Subdivision of Irregularly Shaped Parcel for Infill Development Using Flag Lot Design and Lot Size Averaging
3-10-8.2	Illustrative Height-to-Width Calculation
3-10-8.3	Illustrative Application of Height Transition Area
4-3-2.2.1	Buffer Abutting Agricultural Land/Setback and Buffer for Poultry Houses and Hog Pens
4-4-5.0	Type 1 Unrestricted Manufactured Home Installation/Manufactured Home Compatibility Standards
4-4-6.0	Types 2&3 Manufactured Home Compatibility Standards
4-5-5.1.1	Manufactured Home Park Minimum Requirements/Manufactured Home Space Minimum Requirements/Interior Access Road Detail
4-5-5.1.2	Illustrative Manufactured Home Park/Manufactured Home Park Space Detail
4-6-4	Equivalent Animal Numbers
4-6-7	Setback Distances for Animal Feeding Operations
4-7-7.1.1	Rural Cluster
4-7-7.1.2	Rural Cluster (Plotted)
4-7-7.2.1	Common Drainfield
4-7-7.3.1	Rural Cluster Locations
4-7-7.3.2	Rural Cluster Preserves Stream
4-7-7.3.4	Cluster Lot
4-9-2	Focus Areas

FIGURE	TITLE (cont'd)

LIST OF TABLES

TABLE	TITLE (cont'd)

LIST OF APPENDICES

USER GUIDE

The User Guide was prepared to assist you or your government in determining which "modules" of the model code might be most appropriate for individual local situations. To that end, it provides a Guide to City and County Applications, a Subject Area Guide, and a Module Compatibility Matrix. All users of the model code should review each of these three sections carefully in considering local adoption of any portion of the model code. In addition, an attorney (such as your community's city or county attorney) should carefully review any portion of the model code prior to its adoption by a local government.

The model code was prepared to serve both as a comprehensive code and also as a "menu" of choices and approaches to land use management that provide viable alternatives to conventional zoning. It is very unlikely that a local government would need to consider adopting the entire code. Although the model code was drafted so that most of the individual modules can and do fit together in a coherent and consistent whole, not every module is likely to apply in a given jurisdiction because of overlap and duplication. Such potential conflict is inherent whenever alternatives are provided. In some cases, different modules are intentionally duplicative and therefore would be in conflict with one another if adopted together. These points are discussed further under the Module Compatibility Matrix of this guide.

BASIC POINTS ON PREPARING ORDINANCES

For the most part, the individual modules (such as Section 2.5, 4.3, 6.7, etc.) cannot stand alone as legal ordinances without additional material from Section 2.0, Basic Provisions for All Ordinances. For almost any application, a local land use management ordinance should include relevant portions of the model preambles and legal status provisions provided in Section 2.0, Basic Provisions. It is important to include a "preamble" in each ordinance because it helps to provide the legal rationale for the adoption of the ordinance. The jurisdiction or "geographic scope" of each ordinance must also be clear. The geographic jurisdictions of different ordinances may differ and need to be reconciled in order to fit together. Finally, the government must decide how each ordinance will be administered and enforced, and whether any variances and appeals should be provided for in the ordinance. If so, then provisions of Part Seven: Procedures, Boards and Commissions, may be needed. There are many opportunities for the modules in Part Seven to fit with other code sections, but such a connection may or may not need to be made, depending on the local situation.

CONSULTING THE COMPREHENSIVE PLAN FOR GUIDANCE

Your local government's comprehensive plan should provide guidance as to which types of land use problems have been identified in your city or county and therefore, which types of regulations are needed. In most instances, the types of local regulations that are needed to implement the comprehensive plan will be identified in the Short-Term Work Program (STWP) portion of the comprehensive plan. It is also fruitful to consult the Land Use Element of the comprehensive plan and the Natural and Historic Resources Element(s), because they are likely to provide descriptions of land use problems and environmental issues and the rationales for adopting various land use and environmental regulations. It should be noted, however, that few comprehensive plans in Georgia are likely to refer in exact language to the module titles of the model code, because the model code provides innovations and modified codes that are not likely to be found in Georgia to date.

THINKING "INCREMENTALLY" IS ACCEPTABLE - "WALK BEFORE YOU RUN"

It was also necessary to design the model code as a set of modules because different sections of the code address unique geographic areas (e.g., developing and built-up areas, small downtowns, and agricultural/rural areas) that may not be found within a single local jurisdiction. In addition, most rural counties and small cities and towns are not likely to adopt multiple land use management ordinances. Local governments that in the past have been unable for various reasons to adopt land use regulations should take small steps—consider one, or only a few, land use issues and ordinance modules at a time. (The model code should probably never be presented in its entirety to a citizens advisory group, planning commission, or elected council or commission, because the very size and scope of the document could be intimidating - and perhaps counterproductive.)

USING THE COMMENTARY TO GUIDE YOU

The model code contains numerous "commentary" sections, which provide background information and alert you to factors that might lead to you to consider changes from the model code language. Consult these commentary sections for useful information on modifying the model code provisions and connecting them to other parts of the model code. In some cases, commentaries provide specific references as to how the code provision relates to another module or code provision in the same module.

ADDRESSING THE "MANDATES" AND "BASIC INGREDIENTS" FIRST

Part Two of the model code consolidates those types of environmental regulations that are most likely to be called for (and/or mandated) in local comprehensive plans. For instance, local governments in Georgia must implement the relevant "Part V" Environmental Planning Criteria in order to maintain their Qualified Local Government status under the Georgia Planning Act. These regulations provide minimum criteria for the protection of groundwater recharge areas, water supply watersheds, wetlands, protected river corridors, and protected mountains, to the extent that they may apply in a given jurisdiction. In addition, most local governments with flood hazard areas need to adopt flood plain management regulations, because access to federal flood insurance for local residents is contingent on local government adoption of flood prevention measures. Also, local governments need to adopt soil erosion and sedimentation control ordinances unless they are content to allow the state Department of Natural Resources to enforce this state law within their local jurisdictions. Finally, most local governments should adopt the most basic of land development regulations - land subdivision regulations and land development improvement requirements - as provided in Part Two of the model code.

A GUIDE TO CITY AND COUNTY APPLICATIONS

The model code has been written to provide land use management techniques that can be applied in a variety of areas, including municipal and unincorporated, built-up and rural, areas. As would be expected, the conditions in a small town can differ remarkably from the conditions found in an unincorporated area some ten miles out of town. Indeed, cities and counties may have remarkably different needs with regard to land use regulations. This section of the user guide provides additional guidance on selecting modules, depending on whether you are applying regulations to a city or a rural, unincorporated area of the county. However, one should also note that the types of municipalities that are most likely to consult this model code are those that are experiencing slow growth or no growth and may have vacant and even agricultural land inside the city limits. Therefore, one should not take the oversimplifications in the table below to be definitive or representative in every case. Note that the table below only includes additional "optional" tools that are over and above the modules in Part Two, which contains recommended basic ingredients for all local land use management codes.

GUIDE TO CITY AND COUNTY APPLICATIONS
(MASTER MODULE LISTING FOR PARTS 3-7)

Legend: ● = applicable in most/all cases; ◖ = may be applicable; ○ = not applicable

DESCRIPTION	APPLICABILITY		DESCRIPTION	APPLICABILITY	
	City	County		City	County
3.1 Performance standards for off-site impacts	●	●	5.2 Design review	●	◖
3.2 Development performance standards	●	●	5.3 Design guidelines	●	◖
3.3 Home business uses	●	◖	5.4 Historic preservation	●	◖
3.4 Tree protection	●	◖	6.1 Intensity districts and map	●	●
3.5 Regulations for specific uses	●	●	6.2 Interchange area development	●	●
3.6 Nuisance controls	●	◖	6.3 Development agreement	◖	◖
3.7 Signs	●	◖	6.4 Major permit requirement	◖	◖
4.1 Agricultural lands	◖	●	6.5 Environmental impact statement	◖	◖
4.2 Agricultural use notice and waiver	○	●	6.6 Land use guidance (point) system	◖	◖
4.3 Agricultural buffers	○	●	6.7 Corridor map	◖	◖
4.4 Manufactured homes compatibility	●	●	7.1 Administrative procedures	●	●
4.5 Manufactured home parks	●	●	7.2 Board of appeals and variances	●	●
4.6 Animal feeding operations	○	●	7.3 Planning Commission	●	●
4.7 Rural clustering	◖	●	7.4 Hearing Examiner	◖	◖
5.1 Downtown specific plans	●	○	7.5 Intergovernmental agreement for services	◖	◖

SUBJECT AREA GUIDE

This table can be used to identify modules that address a particular subject matter.

USER NEED (SUBJECT AREA): We Need to:	Module Titles That May Apply:	Code Reference:
Regulate hog farms or other animal feeding operations	Animal feeding operations	4.6
Provide standards for mobile parks and campgrounds	Manufactured home parks	4.5
Address various individual uses without zoning	Regulations for specific uses	3.5
Limit the most abusive or obnoxious land use impacts	Nuisance controls	3.6
Regulate development only at highway interchanges	Interchange area development	6.2
Regulate development within corridors	Corridor map	6.7
Upgrade the visual features of manufactured homes	Manufactured homes compatibility	4.4
Protect agriculture and resource lands	Agricultural lands	4.1
	Agricultural use notice and waiver	4.2
	Agricultural buffers	4.3
	Rural clustering	4.7
	Intensity districts and map	6.1
	Major permit requirement	6.4
	Environmental impact statement	6.5
	Land use guidance (point) system	6.6
Provide for a basic zoning or land use scheme	Intensity districts and map	6.1
Safeguard against demolition of historic structures	Historic preservation	5.4
Preserve rural character	Rural clustering	4.7
	Design guidelines	5.3
	Manufactured homes compatibility	4.4
	Historic preservation	5.4
Protect neighborhoods without a zoning map	Off-site performance standards	3.1
	Development performance standards	3.2
	Home business uses	3.3
Manage the location of development	Intensity districts and map	6.1
	Land use guidance (point) system	6.6
Provide design guidance and improve aesthetics	Tree protection	3.4
	Signs	3.7
	Manufactured homes compatibility	4.4
	Downtown specific plans	5.1
	Design review	5.2
	Design guidelines	5.3
	Interchange area development	6.2
Establish a review body to look at land use projects	Board of Appeals and variances	7.2
	Planning Commission	7.3
	Hearing Examiner	7.4
Control the off-site impacts of development	Off-site performance standards	3.1
	Nuisance controls	3.6
	Major permit requirement	6.4
	Environmental impact statement	6.5
Establish a city-county administrative arrangement	Intergovernmental agreement for services	7.5

MODULE COMPATIBILITY MATRIX

As noted above, many modules are mutually compatible and will work well in combination, while others may not. The following Module Compatibility Matrix provides a guide to the compatibility of each module (code section) with each other module. The matrix shows code sections both horizontally and vertically. One can determine whether a module is compatible (●), may be compatible (◖), or incompatible (○) by consulting the module compatibility matrix. However, this guidance is not intended to serve as a substitute for the judgement of the model code user, a local community, or its planning and legal consultants.

Because the modules in Part Two, Basic Ingredients for All Ordinances, are compatible with all other land use regulations provided in the model code, they are not included in the compatibility matrix. Therefore only code sections from Parts Three through Seven are included in the compatibility matrix (it is presented in two parts only because of space constraints). To use the compatibility matrix, choose a particular module you want to compare with others, then locate the section number and name in the first column of the table. Find the section number to be compared with in the first row of the table (the names of sections are listed only in the first column, due to space considerations). At the intersection of the selected row and column you will find a "●","◖"," or "○," which can be interpreted as follows:

- The symbol "●" means that the two code sections would not present any inherent conflicts if combined in the same code. However, the lack of inherent conflicts does not imply a recommendation that they should be adopted together. For instance, there would be no need for a small city to adopt the Downtown Specific Plans module (5.1) along with the Animal Feeding Operations module (4.6), yet the two modules could exist without conflict in the same land use code if they were both needed. The large number of "●" designations in the module compatibility matrix should not be surprising, as the code was designed to avoid creating major conflicts between modules presented as a unified model code. However, avoiding conflicts had to be balanced with the desire to provide alternatives. Because different alternatives are provided in parts of the code, there is by necessity some overlap and hence, possibilities for conflict.

- The symbol "◖" means the two code sections may overlap with regard to subject matter, or have procedural or substantive differences that might need to be reconciled in order to fit together well in the same code. For instance, the home business uses module (3.3) can work in tandem with the land use intensity districts and map module (6.1), but modifications would probably be needed or advisable to make them fit together without conflict.

- The symbol "○" means that the two code sections have identifiable overlaps, and represents a judgement that the two modules are not easily reconciled in the same code, or that they may in fact conflict with one another. In most cases, this symbol should be taken as a recommendation against trying to fit the two modules together. In some cases, it may mean that the two alternative approaches may be mutually exclusive in that respect (i.e., one cannot use two alternatives together).

MODULE COMPATIBILITY MATRIX (Part One of Two)

No.	Section Title	DEVELOPING AND BUILT-UP AREAS							AGRICULTURAL AND RURAL AREAS						
		3.1	3.2	3.3	3.4	3.5	3.6	3.7	4.1	4.2	4.3	4.4	4.5	4.6	4.7
3.1	Performance Standards/ Off-Site		●	●	●	◖	◖	●	●	●	◖	●	◖	◖	●
3.2	Development Performance Standards			●	●	◖	◖	●	●	●	◖	●	◖	◖	◖
3.3	Home Business Uses				●	●	●	●	●	●	●	●	●	●	●
3.4	Tree Protection					●	●	●	●	●	●	●	●	●	●
3.5	Regulations for Specific Uses						●	●	●	●	●	●	●	●	●
3.6	Nuisance Controls							●	●	◖	●	●	●	○	●
3.7	Signs								●	●	●	●	●	●	●
4.1	Agricultural Lands									●	●	●	●	●	●
4.2	Agricultural Use Notice/Waiver										●	●	●	○	●
4.3	Agricultural Buffers											●	●	○	◖
4.4	Manufactured Homes Compatibility												●	●	●
4.5	Manufactured Homes Parks													●	◖
4.6	Animal Feeding Operations														●
4.7	Rural Clustering														

Legend: ● = COMPATIBLE ◖ = MAY BE COMPATIBLE ○ = INCOMPATIBLE

MODULE COMPATIBILITY MATRIX (Part Two of Two)

No.	Section Title	SMALL DOWNTOWNS				ALTERNATIVE APPROACHES							BOARDS/ PROCEDURES			
		5.1	5.2	5.3	5.4	6.1	6.2	6.3	6.4	6.5	6.6	6.7	7.1	7.2	7.3	7.4
3.1	Performance Standards/Off-Site	●	●	●	●	●	●	●	●	◖	●	●	◖	◖	◖	◖
3.2	Development Performance Stds	◖	●	●	●	○	●	●	●	●	●	●	◖	◖	◖	◖
3.3	Home Business Uses	●	●	●	●	◖	●	●	●	●	●	●	◖	◖	◖	◖
3.4	Tree Protection	●	●	●	●	●	●	●	●	●	●	●	◖	◖	◖	◖
3.5	Regulations for Specific Uses	◖	●	●	●	●	●	●	●	●	●	●	◖	◖	◖	◖
3.6	Nuisance Controls	●	●	●	●	◖	●	●	●	●	●	●	◖	◖	◖	◖
3.7	Signs	●	◖	◖	◖	●	●	●	●	●	●	●	◖	◖	◖	◖
4.1	Agricultural Lands	●	●	●	●	○	●	●	●	●	●	●	◖	◖	◖	◖
4.2	Agricultural Use Notice/Waiver	●	●	●	●	●	●	●	●	●	●	●	◖	◖	◖	◖
4.3	Agricultural Buffers	●	●	●	●	◖	●	●	●	●	●	●	◖	◖	◖	◖
4.4	Mfr. Homes Compatibility	●	◖	◖	●	◖	●	●	●	●	●	●	◖	◖	◖	◖
4.5	Manufactured Homes Parks	●	◖	◖	●	◖	●	●	●	●	●	●	◖	◖	◖	◖
4.6	Animal Feeding Operations	●	●	●	●	◖	●	●	◖	◖	●	●	◖	◖	◖	◖
4.7	Rural Clustering	●	◖	◖	●	◖	●	●	◖	●	◖	●	◖	◖	◖	◖
5.1	Downtown Specific Plans		◖	○	◖	○	◖	◖	●	●	●	●	◖	◖	◖	◖
5.2	Design Review			●	◖	◖	◖	●	●	●	●	●	◖	◖	◖	◖
5.3	Design Guidelines				◖	●	◖	●	●	●	●	●	◖	◖	◖	◖
5.4	Historic Preservation					◖	◖	●	●	●	●	●	○	○	○	○
6.1	Intensity Districts and Maps						●	◖	○	◖	◖	●	●	●	●	●
6.2	Interchange Area Development							●	●	●	●	●	◖	◖	◖	◖
6.3	Development Agreement								●	●	●	●	○	○	○	○
6.4	Major Permit Requirement									◖	○	●	○	○	○	○
6.5	Environmental Impact Statem't										●	●	○	○	○	○
6.6	Land Use Guidance System											●	◖	◖	◖	◖
6.7	Corridor Map												○	○	○	○
7.1	Administrative Procedures													●	●	●
7.2	Board of Appeals and Variances														●	○
7.3	Planning Commission															◖
7.4	Hearing Examiner															

Legend: ● = COMPATIBLE ◖ = MAY BE COMPATIBLE ○ = INCOMPATIBLE

PREFACE: MODEL ZONING AND LAND USE CODES

This Model Land Use Management Code for Small Cities and Rural Counties in Georgia (hereafter, the model code) was prepared by Jerry Weitz & Associates, Inc. under contract with the Atlanta Regional Commission as managed by the Georgia Department of Community Affairs, Office of Coordinated Planning. Community & Environment, Inc. was a subcontractor on this project and prepared initial drafts of portions of the model code relating to environmental regulation. Frank Jenkins, Esq., provided legal review of the model code and also reviewed and supplemented the legal commentary provided by Jerry Weitz & Associates, Inc.

A number of model zoning and land use codes have been developed since the advent of the planning profession. This section summarizes in chronological order many of the existing model codes that are available and which were consulted or used to prepare this model code.

While no longer law, the General Planning Enabling Act of 1957 (Atlanta: Bureau of State Planning and Community Affairs, 1970) provides language that has been incorporated into many, if not most, of the local zoning ordinances in effect in Georgia's communities today. It has served as a model for local zoning ordinances and still has merit today at least with regard to its legal precedent in Georgia. Its language regarding zoning ordinances, subdivision regulations, and official maps was consulted in preparing this model code. Bair (1965) prepared Local Regulation of Mobile Home Parks, Travel Trailer Parks and Related Facilities (Chicago: Mobile Homes Research Foundation, 1965), which contains a model ordinance with commentary for the regulation of mobile home parks. While Bair's work is woefully outdated due to extensive changes in the manufactured home industry, it was still consulted with regard to historical precedent because manufactured home parks and recreational vehicle parks still cause land use issues in rural Georgia today.

In 1974, Howard Schretter wrote and the Institute of Community and Area Development (ICAD) published Opportunities for Local Building Codes Enforcement (Athens, GA: Institute of Community and Area Development, 1974). This publication contains among other materials a model contract for multi-jurisdictional codes services, and it was consulted for its value in preparing a model intergovernmental agreement for services.

In 1979, Charles Aguar wrote and ICAD published Social Circle Zoning Ordinance Proposal: A Model Zoning Format for Georgia Communities (Athens, GA: University of Georgia, Institute of Community and Area Development, 1979). The Social Circle proposal is now quite dated, but it provides commentary and code contents that have been considered in preparing this model code.

In 1983, John Waters wrote and ICAD published Maintaining a Sense of Place: A Community Guide to Preservation (Athens, GA: Institute of Community and Area Development, 1983). Waters' work (1983) includes a model historic preservation ordinance based on Georgia's 1980 state preservation law, which formed the basis for the model preservation ordinance included here.

Michael Brough wrote a Unified Development Ordinance (Chicago: Planners Press, 1985) which combines zoning, subdivision, utility and street specifications, signs, and landscaping regulations into a single development ordinance. Brough's work, which includes commentary, has its roots in North Carolina law. Due to its comprehen-siveness, Brough's work is relevant to this effort and was consulted as appropriate. In 1986, the International City Management Association distributed Nuisance Abatement Program and Ordinances, Erwin, North Carolina (Washington, DC: ICMA, 1986) as a clearinghouse report; this report provided the foundation for the public nuisance module contained in this model code.

In 1989, Jerry Weitz prepared a model zoning ordinance with commentary. That work was written as a model for a suburban community in Georgia and based largely on the City of Roswell, Georgia's zoning ordinance. Although not published, Weitz's model zoning ordinance with commentary was one of many sources that Jean McRae, Esq., of the Association County Commissioners of Georgia (ACCG) consulted in preparing a Model Rural County Zoning Ordinance (Atlanta, GA: Association County Commissioners of Georgia, 1993) under the context of Georgia law at that time. ACCG's effort to publish a model rural zoning ordinance is noteworthy not only for its content (which is to some extent relevant here) but because it marks a recognition (which is even more valid today) that rural counties in Georgia need simplified models of land use regulations to consider, adopt, and implement.

A book written by Mantell, Harper and Propst titled Resource Guide for Creating Successful Communities (Washington, DC: Island Press, 1990), provides sample ordinances with regard to

stream corridor protection, wetlands and drainage, historic preservation districts, signage, and hillside development, among others. In the early 1990s, the Georgia Department of Community Affairs prepared and distributed a Model Water Supply Watershed Protection Ordinance and a Model Groundwater Recharge Area Protection Ordinance (Atlanta, Office of Coordinated Planning, not dated). This model code draws heavily on more recent versions of model groundwater recharge, water supply watershed, and wetland ordinances and guidebooks published by DCA.

With regard to subdivision regulations, there are two significant model codes available that were consulted in preparing this model code. Listoken and Walker wrote a model subdivision and site plan ordinance for the State of New Jersey which was subsequently published as The Subdivision and Site Plan Handbook (New Brunswick, NJ: Center for Urban Policy Research, 1989). That work includes a handbook containing a model ordinance and commentary in a side-by-side format; its provisions have been considered in this model code, as appropriate. Freilich and Schultz wrote the second edition of Model Subdivision Regulations: Planning and Law (Chicago: Planners Press, 1995) which provides helpful ordinance language (some of which is incorporated here) and generous commentary on subdivision regulations and public facility impact fees. Arendt (1996) provides model ordinance provisions for conservation subdivisions in Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks (Washington, DC: Island Press, 1996). That work and Arendt's earlier work (1994) were helpful in producing this code.

In 1998, the American Planning Association published Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change (Chicago: American Planning Association, 1998). Although this work is intended to provide guidance to the reform of state statutes, it is still quite useful in the context of local land use regulations. This model code incorporates selected provisions from the Legislative Guidebook, particularly its provisions on "corridor maps" as an alternative to "official maps." A book on performance zoning approaches by Porter, Phillips, and Lasser titled Flexible Zoning: How It Works (Washington, DC: Urban Land Institute, 1988) provides detailed performance zoning provisions, and that work was the primary reference source used in preparing the simplified land use guidance (point) system module included in this model code.

A book by Tom Daniels, When City and Country Collide: Managing Growth in the Metropolitan Fringe (Washington, DC: Island Press, 1999) provides, among other useful information, a model ordinance for telecommunications towers and antennas and a model intergovernmental agreement between a county and a city or village. In 1999, OTAK, Inc. prepared and Oregon's Transportation and Growth Management Program published a Model Development Code and User's Guide for Small Cities (Salem: Oregon Transportation and Growth Management Program, 1999). This model development code is well illustrated with code provisions and design standards, and it provides an example model code written for small cities without full-time professional planning staffs. Because it contains a "user's guide," it was also consulted for ideas in that regard.

The scope of services for this model code called for the illustration of regulations where possible. Most of the aforementioned model code sources are not heavily illustrated. In fact, there is no known illustrated model land use code available. However, the following sources were consulted in preparing illustrations for this model code: Moskowitz and Lindbloom's The Illustrated Book of Zoning Definitions (Piscataway, NJ: Center for Urban Policy Research, 1981), the second edition of the Residential Development Handbook (Washington, DC: Urban Land Institute, 1990), Kone's (eighth edition) Land Development (Washington, DC: Home Builder Press), DeChiara, Panero and Zelnick's Time-Saver Standards for Housing and Residential Development (New York: McGraw-Hill, 1995) and DeChiara and Koppelman's Time Saver Standards for Site Planning (New York: McGraw-Hill, 1984). A limited number of illustrations are available and were consulted from Davidson and Dolnick's A Glossary of Zoning, Development, and Planning Terms (Chicago: American Planning Association, 1999). Original drawings prepared by Jerry Weitz & Associates, Inc. in prior work, including the Forsyth County, Georgia, Unified Development Code (2000) and Development and Design Guidelines for the Georgia 400 Corridor, Dawson County, Georgia (2001), were also incorporated into this model code.

Numerous other sources were consulted which cannot be reiterated here. For more information on sources, see the master bibliography.

PART ONE: INTRODUCTION TO THE MODEL CODE

WHY THIS MODEL CODE IS NEEDED

Small cities and rural counties in Georgia need simplified land use management techniques that minimize administrative requirements. The intent of the Alternatives to Zoning (ALT Z) project is to provide viable alternatives to conventional zoning that can be implemented by smaller local governments with limited technical and administrative capacity.

Rather than proceed directly to writing model code provisions, the ALT Z project scope included an initial study of rural land use problems and issues and prevailing responses to them. A task 1 report titled Land Use in Rural Georgia: Problems, Issues, and Prospects (Jerry Weitz & Associates, Inc. and Community & Environment, Inc. 2001) documented a wide variety of regional and local land use problems and issues in rural Georgia. It confirmed the need to develop and promote new, simpler models of land use management that fit the needs of rural local governments better than conventional zoning. The Task 1 report helped in many ways to guide the direction and content of the model code.

Some of the cities reviewed and discussed in the Task 1 report are still mostly agricultural with little to no development pressure. Because conventional zoning was not originally designed to address agricultural land uses, some cities may view zoning as an inappropriate tool for solving their land use problems. Conventional zoning could be used to address agricultural land use issues, but the perception of some people in rural Georgia is that conventional zoning may be an inappropriate tool. Conventional zoning may not be the best answer to rural land use problems and issues in small, agriculturally based cities. Something less rigid than conventional zoning is needed for rural counties and small agriculturally based communities.

Political considerations are paramount when it comes to objections and obstacles to the adoption of local land use regulations. Research in the Task 1 report indicates that Georgia's rural counties have had an especially difficult time, politically, with attempts to pass countywide zoning regulations. Clearly, less rigid alternatives to conventional zoning are needed before some of the rural counties will try to adopt additional land use regulations.

The Model Land Use Management Code for Small Cities and Rural Counties in Georgia (hereafter, the "model code") is written with these local governments in mind—small agriculturally based cities that are not experiencing much development but still need some sort of protection from land use problems, and counties that are experiencing growth but cannot muster the support from the citizenry (or the political will on the Board) to adopt conventional zoning. It is highly unlikely that any single land use management system will be applicable to all, or even the vast majority, of local governments in rural Georgia that have not adopted zoning ordinances. However, by basing the model code contents on research of land use problems and issues in rural Georgia (i.e., the Task 1 report), this model code contains several modules that will surely be useful to local governments that want less restrictive land use tools that do not have to be implemented with a zoning map.

Most of Georgia's regional development centers (RDCs) have conventional zoning ordinances that can be used as models, and they have helped many cities and counties to adopt conventional zoning. A key feature of this model code is the alternatives to conventional zoning. These alternatives include stand alone ordinances that serve some of the same purposes as conventional zoning and a basic land use intensity district system (i.e., "zoning light"), among others. For instance, a system of building setbacks and buffers between incompatible uses can be adopted independently of zoning districts and a zoning map. Local governments that cannot politically accept the rigidity and restrictiveness of conventional zoning may more readily adopt such "mapless" or "light" zoning alternatives.

The Task 1 report also revealed particular concerns with strip commercial development impacts, and to a lesser extent, nuisances from industrial uses. It revealed a need to include aesthetic and functional controls on strip commercial development and techniques to resolve incompatibilities between commercial and residential uses.

Most RDCs also have reasonably good land subdivision ordinances and have helped numerous local governments control land subdivisions in their communities. However, basic subdivision approval procedures often lack important development standards, such as access controls and construction specifications. The model code provides a model land subdivision ordinance and land development regulations designed to ensure proper infrastructure improvements in the local government's jurisdiction.

The Task 1 report did not include original research on the status of local staff available for the administration and enforcement of codes and land use regulations. However, the Task 1 Report provides some strong evidence of a lack of available city staff to administer building codes, enforce codes, and manage land use programs. Regional and local planners have recommended interlocal agreements and the pooling of local resources to hire code enforcement officers and zoning officers in areas that cannot afford their own staff. While local and regional plans point out the need for city-county and even multi-county cooperation with regard to land use regulations, there appears to be a lack of suitable models from which to begin implementing interlocal agreements and programs for land use regulation. This model code helps to fill that void with a model interlocal agreement. However, the Task 1 report also cautions that intergovernmental arrangements for land use management will not work in all regions and localities.

RELATIONSHIP TO DEPARTMENT VISION STATEMENT AND QUALITY COMMUNITIES OBJECTIVES

The Georgia Department of Community Affairs has adopted a vision statement and quality communities objectives. In summary, the Department's vision is (among other principles) to structure its programs to: preserve quality of life, revitalize downtowns, reverse the decline of older neighborhoods, conserve natural and historic resources, facilitate sustainable strategies for growth and development, manage river and transportation corridors, promote more traditional and less auto-dependent (i.e., traditional neighborhood) development patterns, mitigate the negative impacts of development, introduce new smart growth concepts, regulate but do not hinder economic development in rural communities, reduce sprawl by minimizing the conversion of undeveloped land at the urban periphery, and achieve local participation in regional initiatives to protect shared natural resources.

One single project, such as this model code, cannot realistically be expected to promote and implement all objectives. However, the Department's vision statement and quality communities objectives suggest, implicitly if not explicitly, much of this project's content. The model code provides "modules" that, if adopted by local governments, will bring them closer to attaining several of the quality communities objectives. However, land use regulation is but one spoke in the wheel of local programs—including financial abilities and leadership qualities—that are needed to attain many of the department's objectives.

PROCESS USED IN DEVELOPING THE MODEL CODE

The Department of Community Affairs appointed a project advisory committee to provide oversight to the contractor, in addition to management of the project by DCA's Office of Coordinated Planning. Aside from the project advisory committee, which consisted of local and regional planners, the model code was written without substantive input from stakeholder groups such as developers, homebuilders, environmental groups, neighborhood representatives, and county and city planning commissioners and elected officials. Some groups might view the lack of substantial stakeholder input initially as a deficiency. It might be viewed differently, however, when one considers the need to produce numerous models of alternative land use regulations that are not intended to fit exactly the needs of any one particular community. Hence, the model code is free from the local political compromises that usually result when land use regulations are adopted. In this light, the lack of formal, ongoing stakeholder involvement is understandable.

RELATIONSHIP OF PLANNING TO REGULATION

Virtually every local government in Georgia has a comprehensive plan that is intended to provide local policy direction with regard to land use. The model code assumes the city or county interested in regulating land use has a comprehensive plan and that it supports efforts to regulate land uses. In some cases, local comprehensive plans may not have sufficient data and policy statements strong enough to support the regulations contained in this model code. Comprehensive planning is an essential prerequisite to the implementation of most parts of this model code. Frequent references to the comprehensive plan are provided in the model code, and some of the modules of the code will need to be preceded by amendments to the comprehensive plan.

ORGANIZATION OF THE MODEL CODE

The model code is organized into seven parts, summarized below:

Part One: Introduction
Part Two: Recommended Basic Ingredients
Part Three: Provisions for Developing and Built-up Areas
Part Four: Provisions for Agricultural and Rural Areas
Part Five: Provisions for Small Downtowns
Part Six: Alternative Approaches
Part Seven: Procedures, Boards, and Commissions

The organization into parts deserves some explanation. First, the bulk and scope of the model code itself works against one of its most important goals, which is to provide simple models that can be administered relatively easily. All local governments are especially encouraged to adopt regulations contained in part two, "Recommended Basic Ingredients." Part two contains environmental regulations which are either conditionally mandated by the state or are so important that virtually every local government must eventually adopt them in whole or significant part. These include floodplain management, water supply watersheds and groundwater recharge areas, subdivision regulations, and land development regulations. Local governments that have few if any land use regulations should start by adding these basic ingredients to their land use regulatory programs.

A key feature of the model code's organization is its severability into "modules." Parts three, four, and five of the model code are modules in their own right. Within each part are modules that can be severed from the rest of the model code and used as stand-alone ordinances (sometimes requiring the addition of other parts of the model code). One will note that there is a geographical distinction between parts three, four, and five of the model code. Part three of the model code is targeted at areas with developed residential areas that need protection; it includes regulations for protecting neighborhoods, preserving trees, and regulating home businesses and nonresidential land uses. The regulations in part three are most likely to apply to municipalities, although counties certainly may also find them valuable.

Part four is designed primarily to address agricultural and rural issues such as agricultural buffers and manufactured home park regulation. While the modules in part four are expected to be more popular with rural counties than cities, there are a number of cities in Georgia that still have much farmland inside the city limits and that have a substantial number of manufactured homes. Therefore, while designed for rural counties, modules in part four are clearly applicable to some of the cities in Georgia.

Part five of the model code provides the "aesthetic" tools that some small cities may need to protect their overall appearance and/or their historic qualities. In some instances, the provisions of this part might be considered applicable to parts of rural counties.

Part six provides alternative approaches. With the exception of Section 6.1, which is similar to conventional zoning, part six contains regulations that are no longer really "innovative" with regard to the United States, but which are almost entirely absent from use in Georgia. The modules in part six of the model code were derived from land use programs in other states and localities outside Georgia, as described in the Task 2 report for ALT Z, titled, Alternative Land Use Management Techniques with Potential Application In Rural Georgia (Jerry Weitz & Associates, Inc. 2001).

Local governments that need guidance in establishing procedures, boards, and commissions should refer to part seven for assistance. Part seven provides modules on procedures (including amendments to the model code and applications for development approvals) and establishing a Board of Appeals, Planning Commission, and Hearing Examiner.

COMMENTARY

Like most model codes, this one provides "commentary." Originally, it was anticipated that the commentary would be standardized among the various parts and modules of the model code. The language in the various commentaries throughout the model code is not standardized, however, since each alternative land use regulation has its own unique set of issues to consider.

Commentary includes, but is not limited to, the following considerations: general introduction; example applications; administrative and enforcement considerations; legal issues; alternatives to the language proposed; and references to other sections of the model code that are needed to make a particular module stand alone.

"Sources" or "references" follow many of the modules of the model code, so that users are aware of the original sources of some of the model code provisions and can consult them if needed. A master bibliography is also provided at the end of the model code text.

OTHER LAND USE MANAGEMENT SYSTEM COMPONENTS NOT INCLUDED IN THE MODEL CODE

It is important to emphasize at the outset that this model code focuses exclusively on land use regulations that can be adopted by small cities and rural counties in Georgia. With this limited focus, it clearly does not describe or provide more sophisticated tools of growth management,

which are usually preceded by conventional zoning or basic land use controls. Furthermore, there are a number of fiscal tools such as capital improvement programming and infrastructure programs such as sewer facility master planning that are not covered in this model code because of its exclusive focus on regulation.

RELATIONSHIP TO LOCAL CONSTRUCTION CODE ENFORCEMENT

Building and construction codes are prepared and administered in order to ensure that building practices meet acceptable standards for safety (safety, wind resistance, fire resistance, load bearing standards, and so forth). Because the state adopts minimum codes, local governments do not have to (and, in fact, should not) adopt the mandatory codes in order to enforce them (O.C.G.A. Section 8-2-25(a)) (Georgia Department of Community Affairs web page). Many cities and counties do not enforce building and construction codes, whether locally adopted or not. As of September 1999 according to the Georgia Department of Community Affairs, some four dozen counties and approximately 200 municipalities in Georgia did not enforce any sort of construction code. State statistics on local code enforcement reveal further that codes most often enforced by counties are the standard electrical, plumbing, and building codes. For cities, the codes most commonly enforced are fire prevention, electrical, building, and plumbing codes.

GEORGIA'S MINIMUM STANDARD CODES

Construction codes are adopted at the state level to ensure uniformity in their application throughout the state. Minimum standard codes have been adopted by the state (O.C.G.A. 8-2). There are fourteen codes that have been adopted by the State of Georgia, eight of which are "mandatory" and six of which are "permissive." Mandatory codes are applicable to all construction, whether or not they are locally enforced. Permissive codes are only applicable if a local government chooses to adopt and enforce one or more of them. Under Georgia law, any structure built in Georgia must comply with the mandatory codes, whether or not the local government chooses to locally enforce these codes. The eight mandatory codes (as amended by the state) are listed below. Most of these codes are published by the Southern Building Code Congress International, Inc. (SBCCI).

SBCCI Standard Building Code; 1994.
National Electrical Code; 1999.
SBCCI Standard Gas Code (International Fuel Gas Code); 2000.
SBCCI Standard Mechanical Code (International Mechanical Code); 2000.

CABO One and Two Family Dwelling Code; 1995.
SBCCI Georgia State Energy Code for Buildings (CABO Model Energy Code); 1995.
SBCCI Standard Fire Prevention Code; 1994.
Standard Plumbing Code (International Plumbing Code); 2000.

Permissive codes are listed as follows: Standard Housing Code; Standard Amusement Device Code; Excavation and Grading Code; Standard Existing Buildings Code; Standard Swimming Pool Code; and the Standard Unsafe Building Abatement Code (all published by SBCCI).

DCA periodically reviews, amends and/or updates the state minimum standard codes. If a local government chooses to locally enforce any of these codes, it must enforce the latest editions and the amendments adopted by DCA. Information about code amendments is available on DCA's web page.

RELATIONSHIP BETWEEN LOCAL AND STATE MINIMUM STANDARD CODES

Local governments can propose local amendments to state minimum standard codes, but they cannot be less stringent than the requirements in a state minimum standard code. Local construction codes can be more stringent than state minimum standard codes, but only if they are justified on the basis of unique local climatic, geologic, topographic, or public safety factors. Any local amendment to a state minimum standard code is required to be sent to the Georgia Department of Community Affairs (DCA) for review and recommendation. Georgia's Construction Code Program is administered by DCA's Construction Codes and Industrialized Buildings Section.

CODES ADMINISTRATION

As noted by the Georgia Department of Community Affairs, "in order to properly administer and enforce the state minimum standard codes, local governments must adopt reasonable administrative provisions. The power to adopt these administrative procedures is set forth in O.C.G.A. Section 8-2-26(a)(1). These provisions should include procedural requirements for the enforcement of the codes, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other procedures necessary for the proper local administration and enforcement of the state minimum standard codes." Because DCA has already prepared a sample resolution/ordinance that may be used as a guide for local governments in the development of their administrative procedures, a model code relative to those provisions is not

provided in this code. DCA can provide a copy of the sample resolution/ordinance for establishing administrative procedures relative to construction codes. It can also provide technical assistance if needed in the development of a local code enforcement program.

STATE REGULATION OF INDUSTRIALIZED BUILDINGS

Georgia's Industrialized Buildings Program was established via the Industrialized Buildings Act in 1976 with the purpose of establishing building construction standards for factory built housing. In 1982 the program was expanded by the General Assembly to include, in addition to housing, all business and commercial buildings that are mass-produced in factories and then transported to building sites to be installed. State codes for industrialized buildings are needed because they cannot be inspected at the installation site without disassembly, damage or destruction. All state-approved industrialized buildings must be manufactured to meet the official Georgia State Construction Codes. Such buildings have an insignia from the Georgia Department of Community Affairs indicating their compliance with the state's construction standards. An approved building is deemed to comply with all local ordinances and laws relating to its construction.

Manufactured (mobile) homes are excluded from the state program, because they are the responsibility of the U. S. Department of Housing and Urban Development. Buildings constructed in a conventional manner are not subject to the state industrialized building program; they are regulated instead by the state minimum codes described above. The industrialized buildings codes program does not supersede zoning (or land use) regulations administered by local governments. Local governments retain control over all matters relating to a building's installation at a site, including subdivision controls, zoning, grading, foundation installations, and utility hook-ups.

RELATIONSHIP OF CONSTRUCTION CODES TO LAND USE REGULATIONS

Any local land use management system, no matter how simple or sophisticated, relies on other systems for enforcement, especially a building permit system used to administer standard building and other state minimum codes. One of the most direct ways to control land development is through a building permit system. A building permit can be withheld in cases where a development proposal does not comply with city or county land use regulations. Also, the building review process provides a means for reviewing development proposals for compliance with development regulations, in addition to construction codes.

This model land use management code takes into account that many cities and counties still do not administer construction codes and thus probably do not require building permits.
This model code, if adopted, does not require the local government to adopt minimum building and other construction codes or administer state minimum codes. However, local governments need some sort of permit requirement to trigger a review of construction and development. In lieu of a "building permit" requirement, this model code makes frequent reference to a "land use permit." The reference to a land use permit is intentional so as to differentiate the requirements of this code from building and other construction permit requirements. In cases where a city or county has adopted a building code (i.e., building permit requirement), it could substitute "building" permit for "land use" permit for the sake of simplicity, though it should also recognize that construction codes are administered by building officials while land use codes are administered by planners, engineers, and zoning administrators.

§2-0 BASIC PROVISIONS FOR ALL RESOLUTIONS [ORDINANCES]

CONTENTS

§2-0 BASIC PROVISIONS FOR ALL RESOLUTIONS [ORDINANCES]

§2-0-1(A) PREAMBLE

WHEREAS, the Constitution of the State of Georgia, effective July 1, 1983, provides in Article IX, Section II, Paragraph IV thereof, that the governing authority of the County [City] may adopt plans and exercise the power of zoning; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment, vital areas, and land use; and

WHEREAS, the Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989, said standards and procedures were ratified by the Georgia General Assembly, and said rules require local governments to describe regulatory measures and land development regulations needed to implement local Comprehensive Plans; and

WHEREAS, the Georgia Department of Natural Resources has promulgated Rules for Environmental Planning Criteria, commonly known as the "Part V" Standards, said rules were ratified by the Georgia General Assembly, and said rules require local governments to plan for the protection of the natural resources, the environment, and vital areas of the State; and

WHEREAS, the Board of Commissioners [Mayor and City Council] has adopted a Comprehensive Plan in accordance with the requirements of the Georgia Planning Act of 1989, Rules of the Georgia Department of Community Affairs, and Rules of the Georgia Department of Natural Resources, and said plan has been revised from time to time; and

WHEREAS, the Comprehensive Plan specifies a number of goals and policies that are not currently implemented by the County's [City's] land use regulations; and

WHEREAS the Board of Commissioners [Mayor and City Council] desires to help assure the implementation of its Comprehensive Plan; and

WHEREAS, the Board of Commissioners [Mayor and City Council] desires to promote the health, safety, welfare, morals, convenience, order, and prosperity of the County [City] and its citizens;

NOW THEREFORE BE IT RESOLVED [ORDAINED] by the Board of Commissioners [Mayor and City Council], and it is hereby resolved [ordained] by the authority of the same, that the following articles [or chapters] and sections known collectively as the [insert title of resolution or ordinance] is hereby enacted into law.

Commentary: Resolutions and ordinances typically contain a "preamble" that provides a legal justification for its provisions. Sometimes, the "whereas" parts of the preamble are not codified. The preamble provided in this model code cites major sources of authority for the adoption of zoning and land use regulations. Authority is derived from the state constitution, statutes (the Georgia Planning Act), and administrative rules of the state Departments of Community Affairs and Department of Natural Resources. All of these citations may or may not be included in the ordinance, depending on its contents. For instance, an ordinance that has nothing to do with the environment should not cite the Georgia' Department of Natural Resources' rules for environmental planning criteria. The reference to the comprehensive plan is probably appropriate for all land use regulations, but it must be accurate. That is, if the proposed ordinance does not clearly implement a policy of the comprehensive plan, the local government should consider amending the comprehensive plan to identify the need and provide support for a particular ordinance.

§2-0-1(A) provides a general preamble and enactment clause. For more comprehensive land use ordinances, such as those that establish intensity districts, regulate specific uses of lands and their locations and characteristics, and/or govern the subdivision of land and improvements thereon, additional preamble provisions are recommended, as provided in §2-0-1(B) below.

§2-0-1(B) ADDITIONAL PREAMBLE FOR LAND USE CODES

WHEREAS, the Board of Commissioners [Mayor and City Council] desires to promote responsible growth, lessen congestion in the public thoroughfares, secure safety from fire and health dangers, and promote desirable living conditions; and

WHEREAS, the Board of Commissioners [Mayor and City Council] desires to regulate the height, bulk, and the size of buildings and structures; and

WHEREAS, the Board of Commissioners [Mayor and City Council] desires to classify land uses, establish procedures and regulations for the subdivision and development of land, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values; and

WHEREAS, the Board of Commissioners [Mayor and City Council] desires to provide for economically sound and stable land development by assuring the provision in land developments of adequate streets, utilities, services, traffic access and circulation, public open spaces, and maintenance continuity; and

WHEREAS, the Board of Commissioners [Mayor and City Council] finds that the regulations contained in this Resolution [Ordinance] are the minimum necessary to accomplish the various public purposes; and

WHEREAS, the General Assembly of the State of Georgia enacted Ga. Laws 1985, page 1139, Act. No. 662, providing for an amendment to Title 36 of the Official Code of Georgia Annotated, codified as O.C.G.A. sections 36-66-1 et seq., so as to provide procedures for the exercise of zoning powers by cities and counties; and

WHEREAS, appropriate public notice and hearing have been accomplished; and

WHEREAS, the planning commission has considered this matter;

Commentary: This section should be carefully reviewed for its appropriateness. It provides the rationale for adoption of both an intensity district ordinance (see §6-1) and land subdivision regulations (see §2-2). If appropriate, it should be added to the preamble language provided in

§2-0-1(A) before the "NOW, THEREFORE…". If a planning commission has not been created or does not review land use regulations, that reference should be deleted. Land use regulations, whether or not they constitute "zoning ordinances" should in most cases be adopted only after following procedures pursuant to and consistent with the Zoning Procedures Law (O.C.G.A. 36-66).

§2-0-2 ADOPTION AND EFFECTIVE DATE

This Resolution [Ordinance] is hereby adopted this ___ day of _____, ____, and shall be effective immediately upon its adoption, the public welfare demanding it.

BOARD OF COMMISSIONERS [MAYOR AND CITY COUNCIL]

_____, Chairman [Mayor]

ATTEST:

_____

County [City] Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

_____

County [City] Attorney

Commentary: Sometimes a local government may want to establish an effective date that is different from the date of adoption. That is, a local government may not want to make the ordinance effective immediately. There may be some risks involved in establishing an effective date that is not immediate, because it provides time for persons to establish uses and engage in practices that might not be consistent with the new ordinance. In the event the effective date is different from the date of adoption, the ordinance should specify both dates. An alternative used in many ordinances is the provision of a section titled "Effective Date" under "Legal Status Provisions."

§2-0-3 LEGAL STATUS PROVISIONS

§2-0-3.1 Short Title. The Resolution [Ordinance] shall be known and may be cited as the _____ [insert title of resolution or ordinance].

§2-0-3.2 Jurisdiction. Unless this Resolution [Ordinance] clearly indicates otherwise, this Resolution [Ordinance] shall apply within the unincorporated limits of _____ County, Georgia, and within the limits of any inactive municipality in accordance with O.C.G.A. § 36-70-5 [city limits of the city of _____, Georgia].

§2-0-3.3 Conflict With Other Laws. Whenever the regulations of this Resolution [Ordinance] require or impose more restrictive standards than are required in or under any other Resolution [Ordinance], the requirements of this Resolution [Ordinance] shall govern. Whenever the provisions of any state or federal statute requires more restrictive standards than are required by this Resolution [Ordinance], the provisions of such statute shall govern.

§2-0-3.4 Validity and Severability. Should any section or provision of this Resolution [Ordinance] be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Resolution [Ordinance] as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

§2-0-3.5 Repeal of Conflicting Resolutions [Ordinances]. All Resolutions [Ordinances] and parts of Resolutions [Ordinances] in conflict herewith are repealed to the extent necessary to give this Resolution [Ordinance] full force and effect, except that any ordinances or resolutions repealed by this provision shall not limit or impair the county's [city's] authority to enforce such ordinances or resolutions to the extent that violations thereof occurred prior to repeal.

§2-0-3.6 Codification. It is the intention of the Board of Commissioners [Mayor and Council], and it is hereby resolved [ordained] that the provisions of this Resolution [Ordinance] shall become and be made a part of the official code of the County [City] of _____, and the sections of this Resolution [Ordinance] may be renumbered or reorganized to accomplish such intention.

Commentary: Except for the "short title," these are standard legal status provisions that should be included in any resolution or ordinance or any amendment thereto. The "codification" provision allows the local government to bring the new ordinance into its code, in a different format, without the need for readopting it. Note the section on "jurisdiction and applicability" cites "inactive municipalities" where a county's jurisdiction might apply—this provision should be deleted if it is not applicable.

§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

§2-0-4.1 Administration and Interpretation. It shall be the duty of the duly appointed Land Use Officer to administer and interpret this Resolution [Ordinance]. To this end, the Land Use Officer is authorized to prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this Resolution [Ordinance], and to implement the provisions of this Resolution [Ordinance]. The Land Use Officer may delegate administrative functions, powers and duties assigned by this Resolution [Ordinance] to other staff as may be appropriate, without the need to reflect such delegation by formal action.

Commentary: The administrative officer or enforcement officer could have other titles, such as "city clerk," "planner," "building official," "building inspector," "code enforcement officer," and the like. For purposes of convenience, this model code uses the term "Land Use Officer." The code should specifically define who the Land Use Officer is, or alternatively, use a different term such as "building official." Note the language "duly appointed." Even though the definition of the term "Land Use Officer" should suffice, this term might become legally problematic. To err on the side of caution, the local government might consider specifically designating, by resolution or formal vote reflected in the minutes of a public meeting, the appropriate staff person as the Land Use Officer. Such action will help to avoid a claim that a given staff person is not acting pursuant to specific authority provided by the local government. This section also provides authority of the administrative official to prepare administrative forms and the like, an authorization that is often overlooked in other ordinances.

§2-0-4.2 Appeal of an Administrative Decision or Interpretation. Any person who alleges that there has been an error by the Land Use Officer in administration or interpretation of this

ordinance shall have the right to appeal the decision of the Land Use Officer to the Board of Appeals, as more specifically provided in Section 7.2 of this code.

Commentary: A Board of Appeals needs to be established to hear appeals of administrative decisions and interpretations. Alternatively, the Local Governing Body could serve as the body with jurisdictions for appeals. If the local government does not want a board of appeals or wants to further simplify the ordinance, it may appoint itself, i.e., the Board of Commissioners or Mayor and City Council, to decide appeals of decisions by the Land Use Officer. However, because legislative decisions of the governing body and quasi-judicial proceedings appeals board are usually separate, and since governing bodies do not typically have experience making decisions under quasi-judicial proceedings, it is recommended that appeals go to a separate Board of Appeals (Section 7.2) or a Hearing Examiner (Section 7.4). Also note that this "appeal" provision is often included within an article or section on the Board of Appeals itself.

§2-0-4.3 Land Use Permit Required. Unless specifically exempted or otherwise provided by this Resolution [Ordinance], no building, sign, or other structure shall be erected, moved, added to, or structurally altered without a Land Use Permit issued by the Land Use Officer. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, land, water, or premises, without a Land Use Permit for such use or occupancy. Unless specifically exempted or otherwise provided by this Resolution [Ordinance], no land use activity including land disturbance shall be initiated without a Land Use Permit issued by the Land Use Officer, and except in conformity with said Land Use Permit. It shall be unlawful to erect, move, add to, structurally alter any building or structure, use or occupy or permit the use of any occupancy of any building, structure, land, water, or premises, or initiate any land use activity that is in violation of an approved Land Use Permit.

Commentary: This provision establishes a generic "Land Use Permit" in place of a building permit, development permit or land disturbance permit, and certificate of occupancy. Local governments that have adopted building codes could substitute the terms "building permit" and "certificate of occupancy" for "land use permit." Local governments that have established separate "land disturbance" or "land development" permits could also rewrite this section to reflect existing permitting requirements. Even with such building, certificate of occupancy, and land disturbance or development permits in place, a local government could consider requiring a land use permit anyway, to ensure that all activities are covered under a permitting process, and

to otherwise ensure enforcement of the ordinance lies with the Land Use Officer. Also, as noted by Aguar (1979), a requirement for a land use permit helps to separate land use from the permit used in enforcing the building code or other construction codes. However, these advantages should be weighed against the need to "streamline" permitting processes.

Commentary: Local governments should also carefully consider how the "land use permit" required by this section relates to a land disturbance permit required to be issued for purposes of soil erosion and sedimentation control (see Code Section 2-1-7). If the land use permit is the same as the land disturbance permit as described in Code Section 2-1-7, it should be noted that land disturbance permits are issued by the Georgia Department of Natural Resources (DNR) rather than the local government, unless the local government has been certified by the DNR to issue those permits.

§2-0-4.4 Enforcement. It shall be the duty of the duly appointed Land Use Officer to enforce this Resolution [Ordinance] and to bring to the attention of the County [City] attorney any violations or lack of compliance therewith. The Land Use Officer may delegate enforcement functions, powers, and duties assigned by this Resolution [Ordinance] to other staff as may be appropriate, without the need to reflect such delegation by formal action.

§2-0-4.4.1 Refusal ofPermits or Permissions. The Land Use Officer is hereby authorized and directed to deny and withhold permits or permissions on any new project or application pursuant to this Resolution [Ordinance] or other Resolutions [Ordinances] of the County [City] where the applicant, applicant's business, or agent has failed or refused to comply with this Resolution [Ordinance].

§2-0-4.4.2 Stop Work Order. The Land Use Officer is hereby authorized to issue written "stop work" and "cease and desist" orders for any activity that fails to comply with the provisions of this Resolution [Ordinance]. Such "stop work" or "cease and desist" orders may be lifted at such time as the Land Use Officer is satisfied that a good faith effort is being made to comply with applicable provisions of this Resolution [Ordinance]. Nothing shall prevent the Land Use Officer from reissuing "stop work" and "cease and desist" orders where warranted.

§2-0-4.4.3 Injunction. If any land is used, or building, structure, or other activity is established or maintained in violation of this Resolution [Ordinance], the Land Use Officer is

authorized to and may institute, in addition to other remedies, an injunction or undertake other appropriate action to cause the violation to cease or to be corrected.

§2-0-4.5 Complaints. Whenever a violation of this Resolution [Ordinance] occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state clearly and fully the causes and bases of the complaint and shall be filed with the Land Use Officer. The Land Use Officer shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce this Resolution [Ordinance].

§2-0-4.6 Penalties for Violation of Ordinances. Any person violating any of the provisions of the Resolutions [Ordinances] of _____ County [City of _____] shall be punished by a fine or imprisonment, or both. In no case shall the maximum punishment for violation of any of these Resolutions [Ordinances] exceed a fine of $1,000.00 or imprisonment for 60 days, or both.

Violations of Resolutions [Ordinances] in the County [City] may be tried upon citation with or without a prosecuting attorney as well as upon accusations.

Commentary: The above provision applies to county ordinance violations tried in the magistrate court. The statutory provisions relating to use of citations by counties are found at O.C.G.A. §15-10-62.

§2-1 ENVIRONMENTAL REGULATIONS

CONTENTS

§2-1 ENVIRONMENTAL REGULATIONS

§2-1-1 GROUNDWATER RECHARGE AREAS

Commentary on Applicability: This ordinance is specifically designed to implement the state Department of Natural Resources' Environmental Planning Criteria (Rule 391-3-16-.02) (also known as "Part V" standards) relative to groundwater recharge areas. If the local government does not have any significant recharge areas as shown on Hydrologic Atlas 18 (Georgia Geologic Survey 1989), it does not need to adopt this ordinance. However, local jurisdictions that rely on groundwater supplies for domestic and public water supplies should consider the merits of applying the standards established in this ordinance.

Commentary: The State of Georgia has established criteria for the protection of groundwater recharge areas. Groundwater recharge areas provide the mechanism for rainfall runoff to enter the water table, providing water supply resource for not only domestic water supplies, but also

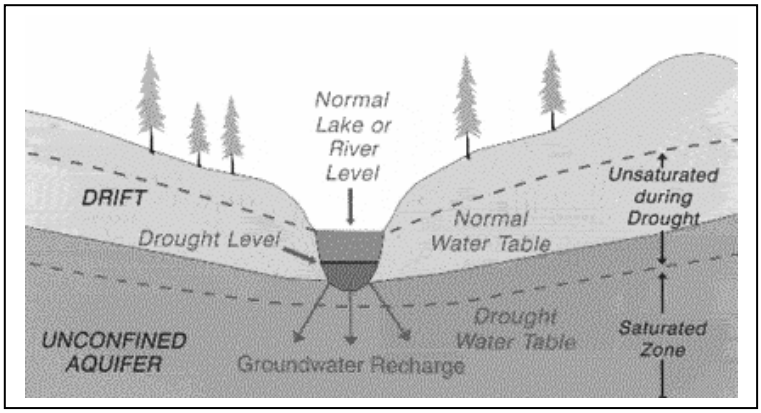
public well systems. While some rainfall runoff flows into creeks, streams, rivers and lakes, a large portion of the water seeps downward through the soil into the saturated zone, or water table. Any materials or chemicals contacting the water as it travels downward through the soil can be carried into the water table.

§2-1-1.1 Title. This Resolution [Ordinance] shall be known and may be cited as a "Resolution [Ordinance] to Protect Groundwater Recharge Areas."

§2-1-1.2 Purpose and Intent. Groundwater is among the Nation's most important natural resources. It provides drinking water to urban and rural communities, supports irrigation and industry, sustains the flow of streams and rivers, and maintains riparian and wetland ecosystems. In many areas of the Nation, the future sustainability of ground-water resources is at risk from over use and contamination. Because groundwater systems typically respond slowly to human actions, a long-term perspective is needed to manage this valuable resource. This Resolution [Ordinance] is intended to implement rules of the Georgia Department of Natural Resources' Environmental Protection Division known as the "Rules for Environmental Planning Criteria" as they specifically relate to groundwater recharge areas (Rule 391-3-16-.02). It is essential to the health, safety, and welfare of the public that the quality of subsurface public drinking water be maintained. Groundwater resources exist in underground reservoirs known as aquifers. These aquifers are zones of rock beneath the earth's surface that are capable of providing water for a well. They occupy vast regions of the subsurface and are replenished by infiltration of surface water runoff in zones of the surface, known as groundwater recharge areas. Groundwater is susceptible to contamination when unrestricted development occurs within significant groundwater recharge areas. Certain land use activities, such as septic tanks, underground tanks, and chemical spills, pose a threat to the quality of groundwater supplies. Therefore, it is necessary to manage land uses within groundwater recharge areas in order to ensure that pollution threats are minimized. To this end, this Resolution [Ordinance] establishes minimum lot sizes to provide for the orderly and safe development of property utilizing on-site sewage management systems. (See Figure 2-1-1.2.1).

Figure 2-1-1.2.1

Recharge of Groundwater from Surface Water
During Normal and Drought Conditions



Source: http://metrocouncil.org/planning/wrfig08.htm

§2-1-1.3 Definitions.

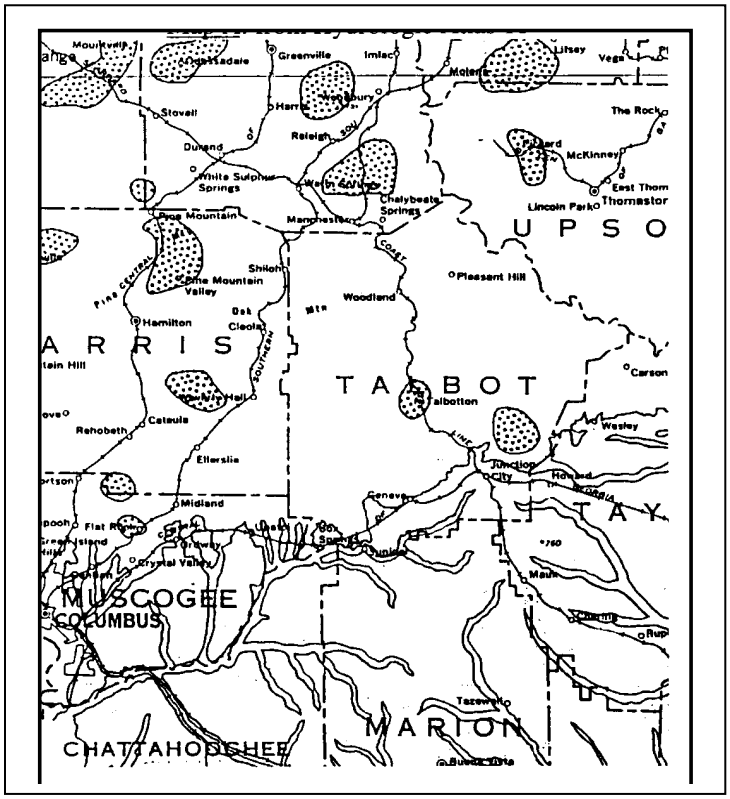
Acre-foot: The volume (as of irrigation water) that would cover one acre to a depth of one foot.

Aquifer: Any stratum or zone of rock beneath the surface of the earth capable of containing or providing water for a well.

DRASTIC: The standardized system for evaluating groundwater pollution potential using the hydrogeologic settings described in U.S. Environmental Protection Agency document EPA-600-2-87-035. (Note: the DRASTIC methodology is the most widely used technique for evaluating pollution susceptibility).

Hydrologic Atlas 18: A map prepared by the Georgia Department of Natural Resources (DNR) and published by the Georgia Geologic Survey in 1989, which identifies the most significant groundwater recharge areas of Georgia as spotted areas labeled as “areas of thick soils.” (See Figure 2-1-1.3.1).

Figure 2-1-1.3.1.



Excerpt from Hydrologic Atlas 18. The circles on the map containing dots are significant recharge areas in the Piedmont; the map pattern resembling tree branches are significant recharge areas in the Coastal Plain.

Hydrologic Atlas 20: A multicolored map of Georgia at a scale of 1:500,000, prepared by the Georgia DNR using the DRASTIC methodology and published by the Georgia Geologic Survey in 1992, which shows areas of high, average (or medium), and low susceptibility of groundwater to pollution in Georgia. This map is also commonly known as the Groundwater Pollution Susceptibility Map of Georgia.

Commentary: Hydrologic Atlas 20 refers to average, but the Part V Environmental Criteria refer to "medium." Therefore, the model code language includes both terms (i.e., medium and average) in this section and others in this module that refer to that provision.

Pollution susceptibility: The relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area. Each significant recharge area shown on Hydrologic Atlas 18 is classified on Hydrologic Atlas 20 as high, medium, or low, and these classifications are relevant

in this Resolution [Ordinance].

Recharge Area: Any portion of the earth's surface where water infiltrates into the ground to replenish an aquifer.

Significant Recharge Areas: Those areas mapped by the Georgia DNR in Hydrologic Atlas 18 (1989 edition) within the County [City] of _____. Each significant recharge area shall be determined to have a pollution susceptibility of high, medium, or low based on Hydrologic Atlas 20.

§2-1-1.4 Adoption of Hydrologic Atlas 18 by reference. Hydrologic Atlas 18, as defined by this Resolution [Ordinance] is hereby adopted and made a part of this Resolution [Ordinance] as if fully set forth herein.

§2-1-1.5 Adoption of Hydrologic Atlas 20 by reference. Hydrologic Atlas 20, as defined by this Resolution [Ordinance] is hereby adopted and made a part of this Resolution [Ordinance] as if fully set forth herein.

Commentary: To obtain these hydrologic atlases, contact the Georgia Geologic Survey Room 400, 19 Martin Luther King Jr. Dr. Atlanta, Georgia 30334. Phone: 404.656.3214. While local governments should probably adopt Hydrologic Atlas 18 and Hydrologic Atlas 20 by reference in their ordinance, it must be noted that the scales of the atlases make it difficult to apply to site-specific conditions. The city or county comprehensive plan should provide a map of significant recharge areas and pollution susceptibility that can be more readily applied in the development review process. It is advisable to transfer information on Hydrologic Atlas 18 and Hydrologic Atlas 20 to a single map that has a scale of no smaller than 1 inch = 2000 feet, so that their applicability can be determined by the Land Use Officer. Digital manipulation of Hydrologic Atlas 18 is now possible; it is available as an Arcinfo database from the Georgia Environmental Protection Division's web page (www.georgianet.org/dnr/environ). If the city or county comprehensive plan has transferred the information from Hydrologic Atlas 18 and Hydrologic Atlas 20 onto a base map of the city or county, or if the city or county uses the ArcInfo database to construct its own map, then such map should be adopted by reference in addition to the adoption by reference of Hydrologic Atlas 18 and Hydrologic Atlas 20. The locally produced map may be sufficient for implementation, but adoption of the official state maps would strengthen the legal standing of the ordinance.

§2-1-1.6 Applicability. This Resolution [Ordinance] shall apply to all lands within the County [City] of _____ that are mapped as significant recharge areas as defined by this Resolution [Ordinance].

§2-1-1.7 Permit Required. No land use permit or building permit shall be issued by the Land Use Officer for a building, structure, or manufactured home to be served by a septic tank, unless the land use or building conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan or subdivision plat in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance].

§2-1-1.8 County Health Department Approval of Permit Required. No land use permit or building permit shall be issued by the Land Use Officer for a building, structure, or manufactured home to be served by a septic tank, unless the _____ County Health Department first approves the proposed septic tank installation as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management Systems (hereinafter DHR Manual) and this Resolution [Ordinance].

§2-1-1.9 Minimum Lot Size. Within an area governed by this Resolution [Ordinance], new homes or land uses served by a septic tank/drain field system shall be on lots having minimum lot sizes as follows, based on application of Table MT-1 of the DHR Manual (hereinafter DHR Table MT-1). The minimums set forth in DHR Table MT-1 may be increased further based on consideration of other factors set forth in Sections A-F of the DHR Manual, as determined by the _____County Health Department.

(a) 150% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a high pollution susceptibility area.

(b) 125% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within an average or medium pollution susceptibility area.

(c) 110% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a low pollution susceptibility area.

Any lot of record approved prior to the adoption of this Resolution [Ordinance] shall be exempt from the minimum lot size requirements of this section. Within an area governed by this

Resolution [Ordinance], no subdivision plat shall be recorded until and unless said plat has been reviewed and approved by the Land Use Officer as being in compliance with the minimum lot sizes established by this section.

Commentary: The Environmental Planning Criteria only specify these requirements for "homes." The first sentence in this section of the model code also extends the provisions to "land uses," thus giving the provision broader applicability. Local governments that only want to comply with the minimum requirements may delete "or land uses" from the first sentence of this section.

Commentary on vested rights: This code section recognizes vested rights of prior approved lots. But keep in mind, in Georgia, although approval may not yet be obtained, a vested right accrues where the property owner has applied for lot approval, such as a subdivision, where the requested lots are allowed at the time of the application.

§2-1-1.10 Mobile Home Parks. Within an area governed by this Resolution [Ordinance], new mobile home parks served by septic tank/drainfield systems shall have lots or spaces having minimum areas in square feet as follows, based on application of Table MT-2 of the DHR Manual (hereinafter DHR Table MT-2). The minimums set forth in Table MT-2 may be increased further based on consideration of other factors set forth in Sections A-F of the DHR Manual, as determined by the _____County Health Department.

(a) 150% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a high pollution susceptibility area;

(b) 125% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within an average or medium pollution susceptibility area;

(c) 110% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a low pollution susceptibility area.

Within an area governed by this Resolution [Ordinance], no site plan for a mobile home park or manufactured home park shall be considered valid until and unless said site plan has been

reviewed and approved by the Land Use Officer as being in compliance with the minimum space sizes established by this section.

§2-1-1.11 Agricultural Waste Impoundment Sites. New agricultural waste impoundment sites in a significant recharge area, as specified below, shall contain a liner consisting of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7}cm/sec or other criteria established by the Natural Resource and Conservation Service:

(a) Any agricultural waste impoundment site located in a high pollution susceptibility area;

(b) Any agricultural waste impoundment site within an average or medium pollution susceptibility area which exceeds 15 acre-feet; or,

(c) Any agricultural waste impoundment site within a low pollution susceptibility area that exceeds 50 acre-feet.

§2-1-1.12 Above Ground Chemical or Petroleum Storage Tanks. Within an area governed by this Resolution [Ordinance], new above-ground chemical or petroleum storage tanks having a minimum volume of 660 gallons shall have secondary containment for 110% of the volume of such tanks or 110% of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all federal requirements.

§2-1-1.13 Hazardous Materials Handling Facilities. Within an area governed by this Resolution [Ordinance], new facilities that handle hazardous materials of the types listed in section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and in amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and any adopted County [City] fire code requirements.

§2-1-1.14 Stormwater Infiltration Basins. Permanent storm water infiltration basins shall not be constructed in significant recharge areas having high pollution susceptibility.

Commentary on How to Make this Resolution [Ordinance] Stand Alone: This module has been written to fit into the land use management code. As such, it relies on certain other sections of

the model code, which have not been reiterated in this module. To make this Resolution [Ordinance] "stand alone," the following provisions should be added in their entirety:

§2-0-1(A) PREAMBLE
§2-0-2 ADOPTION AND EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

References:

For a more detailed version of a groundwater recharge area ordinance, see the City of Montezuma, Georgia, Ordinance #311: http://www.montezuma-ga.org/ordinances/ORD311.HTM.

For more detailed information on groundwater resources in Georgia, see "Ground-Water Conditions In Georgia," 1999,By Alan M. Cressler (U.S. Geological Survey Open-File Report 00-151): http://ga.water.usgs.gov/publications/ofr00-151/index.html. Additional information can be obtained from the U.S. Geological Survey, Ground-Water Resources Program, 2001, U.S. Geological Survey Fact Sheet 056-01, June 2001: http://water.usgs.gov/ogw/pubs/fs01056/.

§2-1-2 WATER SUPPLY WATERSHEDS

Commentary on Applicability: The State of Georgia has promulgated standards for the protection of water supply watersheds and water supply reservoirs. This ordinance is specifically designed to implement the state Department of Natural Resources' Environmental Planning Criteria (Rule 391-3-16-01) (also known as "Part V" standards) relative to water supply watersheds and water supply reservoirs. If the local government does not have any water supply watersheds or water supply reservoirs within its jurisdiction, then it does not need to adopt this ordinance.

§2-1-2.1 Title. This Resolution [Ordinance] shall be known and may be cited as a "Water Supply Watersheds Protection Resolution [Ordinance]."

§2-1-2.2 Purpose and Intent. The quality of public drinking water supplies must be assured. Land-disturbing activities associated with development can increase erosion and sedimentation, which threaten the storage capacity of reservoirs and impair the quality of public drinking water supplies. Stormwater runoff, particularly from impervious surfaces, can introduce toxins, nutrients, and sediments into drinking water supplies, making water treatment more complicated and expensive, and rendering water resources unusable for recreation and other uses. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in potential risks of contamination of nearby public drinking water supplies. Therefore, land use activities within water supply watersheds must be regulated to ensure that public water supplies remain clean. This Resolution [Ordinance] establishes standards, consistent with the Georgia Department of Natural Resources' Rules for Environmental Planning Criteria for Water Supply Watersheds (Rule 391-3-16-01) to ensure water quality in the watershed system is not compromised by land activities such as grading, septic systems, and accidental release of contaminants. The intent of this ordinance is to minimize the transport of pollutants and sediment to the water supply, to maintain the yield of water supply watersheds, and to ensure water can be treated to meet federal and state drinking water standards.

§2-1-2.3 Definitions.

Buffer: A natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to water supply reservoirs or perennial streams within water supply watersheds.

Corridor: All land within the buffer areas established adjacent to water supply reservoirs or perennial streams within water supply watersheds and within other setback areas specified in this Resolution [Ordinance].

Impervious surface: A man-made structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, and patios.

Large water supply watershed: A watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Perennial stream: A stream that flows throughout the whole year as indicated by a solid blue line on a United States Geological Survey Quadrangle map.

Reservoir boundary: The edge of a water supply reservoir defined by its normal pool level.

Small water supply watershed: A watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.
Utility: Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.
Watershed protection map: A map prepared for the local jurisdiction which identifies water supply watersheds and water supply reservoirs, which are the subject of this Resolution [Ordinance]. The watershed protection map also identifies public water supply intake points and perennial streams within the watershed that are upstream of water supply intake points or water supply reservoirs, and the seven-mile radius line from each water intake or water supply reservoir boundary.

Commentary: Local Governments that have prepared a Comprehensive Plan are required to delineate existing and future water supply watersheds, therefore, the information needed to prepare a watershed protection map should already be available. This information should be compared to data supplied by the State's Regional Development Centers. This data includes water supply intake points mapped in Geographic Information Systems (GIS) and delineated water supply watersheds.

Water supply reservoir: A governmentally owned impoundment of water for the primary purpose of providing water to one or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corps of Engineers.
Water supply watershed: The area of land upstream of a governmentally owned public drinking water intake.

§2-1-2.4 Adoption by Reference of Watershed Protection Map. The watershed protection map, as defined by this Resolution [Ordinance], is hereby adopted and made a part of this Resolution [Ordinance] as if fully set forth herein.

§2-1-2.5 Applicability. This Resolution [Ordinance] shall apply to all lands within existing and future small water supply watersheds, large water supply watersheds, and to water supply reservoirs and their immediate surroundings, as shown on the Watershed Protection

Map. This Resolution [Ordinance] does not apply to watersheds not used for public drinking water supply.

Commentary: If the local jurisdiction does not have a large water supply watershed, a small watershed, or a water supply reservoir within its jurisdiction, then this section needs to be modified to delete references to those provisions not applicable in the local jurisdiction. However, it must be noted that the water supply watershed protection requirements apply even if the local government does not own a water intake or reservoir, or not located in the subject local jurisdiction. For instance, a water supply reservoir requiring protection may be owned by someone other than the local government, but it still requires protection under the state environmental planning criteria. Also, a water intake may be located outside of the city or county but the watershed extends into the subject local jurisdiction. In these cases, protection by the subject local government is required. All local governments with jurisdiction must protect those watersheds and reservoirs, regardless of ownership or location of the water intake point or reservoir.

§2-1-2.6 Exemptions. The following land uses and activities are exempted from compliance with this Resolution [Ordinance].

(a) Land uses existing prior to the adoption of this Resolution [Ordinance].

(b) Mining activities permitted by the Department of Natural Resources under the Surface Mining Act.

(c) If utilities cannot feasibly be located outside the buffer or setback areas required by this Resolution [Ordinance], such utility locations can be exempted from the stream corridor buffer and setback area provisions subject to the following conditions:

  (1) The utilities shall be located as far from the stream bank as reasonably possible;

  (2) The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible; and,

  (3) The utilities shall not impair the quality of the drinking water stream.

(d) Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions.

(1) The activity shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture; and,
(2) The activity shall not impair the quality of the drinking water stream.

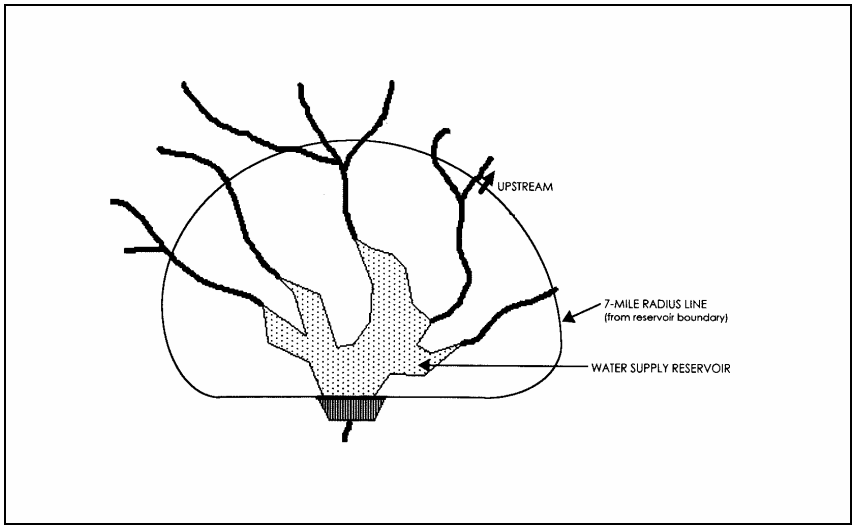
§2-1-2.7 Hazardous Materials Handling Facilities. New facilities which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, and which will locate in a small water supply watershed or within seven miles upstream of a water supply intake or a water supply reservoir of a large water supply watershed, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and the requirements of any adopted Fire Prevention Code.

§2-1-2.8 Requirements for Large Water Supply Watersheds with Reservoirs. The following regulations shall apply to all lands within any large water supply watersheds with a water supply reservoir identified on the watershed protection map. (See Figure 2-1-2.8.1).

(a) Maintain a buffer with a minimum width of 100 feet on both sides of all perennial streams, as measured from the stream banks, within a seven-mile radius upstream of a water supply reservoir boundary.
(b) No impervious surface shall be constructed within a 150-foot setback area on both sides of all perennial streams, as measured from the stream banks, within a seven-mile radius upstream of a water supply reservoir boundary.
(c) Septic tanks and septic tank drainfields are prohibited in the required 150- foot setback area on both sides of all perennial streams, as measured from the stream banks, within a seven-mile radius upstream of a water supply reservoir boundary.

Figure 2-1-2.8.1

Water Supply Reservoir, Perennial Streams, and Seven-Mile Radius



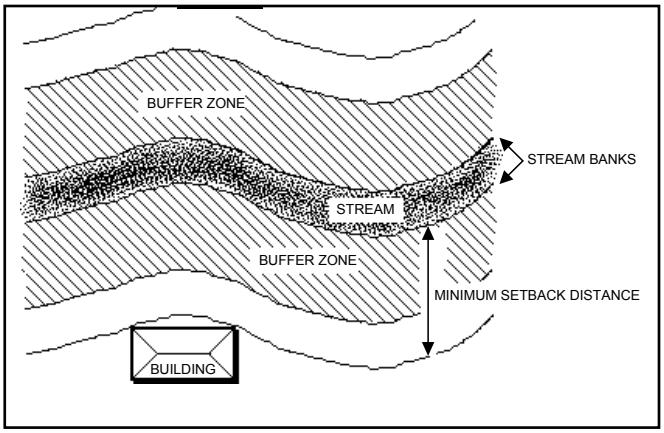
§2-1-2.9 Requirements for Small Water Supply Watersheds. The following regulations shall apply to all lands within any small water supply watersheds identified on the watershed protection map.

(a) Maintain a buffer with a minimum width of 100 feet on both sides of all perennial streams, as measured from the stream banks, along all perennial streams within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir.

(b) No impervious surface shall be constructed within a 150-foot setback area on both sides of all perennial streams, as measured from the stream banks, within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir boundary. (See Figure 2-1-2.2).

Figure 2-1-2.2

Buffer and Setback Adjacent to Stream



(c) Septic tanks and septic tank drainfields are prohibited in the required 150- foot setback area on both sides of all perennial streams, as measured from the stream banks, within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or a water supply reservoir boundary.

(d) Maintain a buffer with a minimum width of 50 feet on both sides of all perennial streams, as measured from the stream banks outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir.

(e) No impervious surface shall be constructed within a 75-foot setback area on both sides of all perennial streams, as measured from the stream banks, outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir boundary.

Commentary: The environmental planning criteria apply to the entire length of a perennial stream that is in a local government's jurisdiction, for buffers and setbacks, with other regulations governing the entire water supply watershed. A local government is only responsible for implementing these regulations for areas within its jurisdiction.

(f) Septic tanks and septic tank drainfields are prohibited in the required 75- foot setback area on both sides of all perennial streams, as measured from the stream banks, outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or a water supply reservoir boundary.

(g) New sanitary landfills are allowed only if they have synthetic liners and leachate collection systems. New hazardous waste treatment or disposal facilities are prohibited.

(h) The impervious surface area, including all public and private structures, utilities, or facilities, of the entire small water supply watershed shall be limited to 25 percent, or existing use, whichever is greater.

Commentary: If a small water supply watershed lies within more than one jurisdiction, all of the local governments within the boundaries of the watershed may agree among themselves on an allocation program for impervious surfaces that yields a net 25 percent limitation throughout the watershed. This approach would require all of the local governments within the watershed to reach a formal impervious surface allocation agreement, and such an agreement would have to be reflected in the comprehensive plan of each participating local government. As another alternative, when more than one local government has jurisdiction over a small water supply watershed, each local government may agree to limit development within their portion of the watershed to 25 percent impervious surfaces. A third alternative is for the local government to limit its portion of the small water supply watershed to 25 percent impervious surfaces but then establish impervious surface ratios for individual land uses (e.g., 15 percent for single family residential, 35 percent for commercial, etc.) which collectively will achieve the 25% impervious limitation in their jurisdiction.

§2-1-2.10 Water Supply Reservoirs. A buffer shall be maintained for a distance of 150 feet from any water supply reservoir boundary as measured from the normal pool elevation. All development within the 150-foot buffer from any water supply reservoir boundary, and any uses of the reservoir itself including docks, shall comply with the reservoir management plan adopted by the County [City] and approved by the Georgia DNR, which is adopted by reference as if fully set forth herein.

Commentary: The owner of a water supply reservoir is required by the Rules for Environmental Planning Criteria to develop a reservoir management plan for approval of the DNR. A reservoir management plan may have been prepared as a part of the local jurisdiction's Comprehensive Plan, or may have been prepared in order for the local government to obtain a DNR water withdrawal permit. Local governments can adopt the reservoir management plan by reference (as in the provision above), incorporate the specific regulatory provisions of the

reservoir management plan into this section, or provide as an addendum to this Resolution [Ordinance].

Commentary on How to Make this Ordinance Stand Alone: This module has been written to fit into the overall land use management code. As such, it relies on certain other sections of the model code, which have not been reiterated in this module. To make this ordinance "stand alone," the following provisions should be added in their entirety:

§2-0-1(A) PREAMBLE
§2-0-2 ADOPTION AND EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

§2-1-3 WETLANDS

Commentary: Local government comprehensive plans should acknowledge the importance of wetlands. To meet minimum standards, local comprehensive plans must contain an inventory of wetlands. The wetlands permit program under Section 404 of the Clean Water Act provides a federal permit process that affords some protection to wetlands. Most activities in wetlands will require a Section 404 permit from the U.S. Army Corps of Engineers. If wetlands are altered or degraded, mitigation is required as a condition of a Section 404 Permit. Under current federal policy, alterations or degradations of wetlands should be avoided unless it can be demonstrated that there will be no long-term adverse impacts or net loss of wetlands.

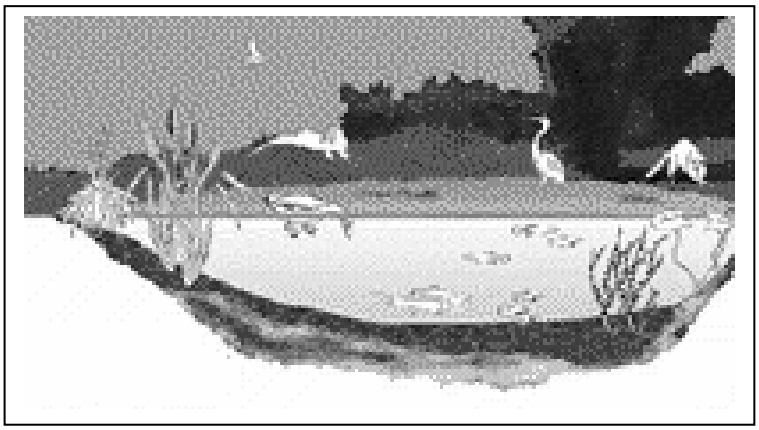
Given the existing level of protection provided by federal wetlands regulations, local governments may elect not to regulate locally for the protection of wetlands. However, the opposite perspective is equally valid--that federal protection of wetlands may be insufficient. This latter view might be the case, particularly in light of recent (January 2002) reports that the George W. Bush presidential administration has relaxed the rules of wetlands permitting.

The state's Department of Natural Resources has adopted Environmental Planning Criteria (also known as "Part V" standards) (Rule 391-3-16-.03) relative to wetlands protection. The criteria do not specify regulations that must be implemented by local government, but it is prudent, at a minimum, to coordinate the federal wetlands permitting process with the local

development process, and to also consider local protection of wetlands. Any local government action under this Resolution [Ordinance] does not relieve any landowner from federal or state permitting requirements.

Wetlands provide very valuable and frequently overlooked functions in the ecosystem, which includes storage of flood waters, improving water quality by filtering out pollutants, and providing habitat to thousands of wildlife species (see Figures 2-1-3.1 and 2-1-3.2). Therefore, the protection of wetlands is critical if we are to avoid flood damages, enjoy a good quality water supply, and ensure a healthy environment. The two greatest threats to wetlands include; 1) filling and subsequent conversion to other uses; and, 2) damage from unchecked erosion and sedimentation.

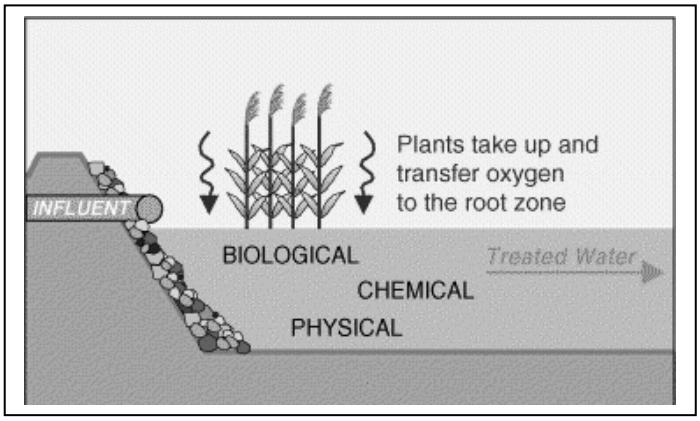
Figure 2-1-3.1
Wildlife Values of Wetlands



Source: http://www.epa.gov/owow/wetlands/vital/nature.html

Figure 2-1-3.2

Contaminant Removal Processes in a Constructed Wetland



Source: http://water.usgs.gov/pubs/FS/FS-033-99/html/NY_fig05.html

§2-1-3.1 Title. This Resolution [Ordinance] shall be known and may be cited as the "Wetlands Protection Resolution [Ordinance]."

§2-1-3.2 Purpose and intent. Wetlands are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the well being of communities in the State of Georgia. Nationally, a considerable number of wetlands have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other activities. Without additional regulation, piecemeal or cumulative losses of wetlands will continue to occur over time. Therefore, it is in the interest of public safety and general welfare to avoid damage or destruction to wetlands. The purpose of this Resolution [Ordinance] is to promote wetlands protection by adopting a generalized wetlands map; provide for the withholding of land use and building permits in areas designated as wetlands until a jurisdictional wetland determination is completed; and establish permitted and prohibited land uses within wetlands shown on the generalized wetlands map.

§2-1-3.3 Definitions.

Generalized wetlands map: A map of wetlands provided in the County's [City's] comprehensive plan [and/or: any U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) map showing wetlands within the local jurisdiction].

Commentary: If the local government's wetlands map, as found in the Comprehensive Plan, is sufficiently detailed (e.g., based on special studies or a mapping of hydric soils), it might be used as the Generalized Wetlands Map. The NWI maps referenced in the definition above are sufficiently detailed and can be used in the development review process. Note that the generalized wetland map does not necessarily represent the boundaries of jurisdictional wetlands within [name of local government] and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended.

National Wetlands Inventory (NWI) maps are available in both digital (computer) and paper format. The digital maps are available on the World Wide Web at www.nwi.fws.gov. Some areas of the state have been digitally mapped and are available for downloading. To obtain paper copies of NWI maps, contact either: (1) Division of Natural Resources, Georgia Natural Heritage Program, 2117 U.S. Highway 278 SE, Social Circle, Georgia 30025, Phone: 770.918.6411; or (2) Georgia Geologic Survey Room 4063 19 Martin Luther King Jr. Dr. SW, Atlanta, GA 30334-9004, Phone (404) 657-6127. Local governments can also contact their Regional Development Center for assistance.

Jurisdictional wetland: An area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Commentary: The U.S. Army Corps of Engineers' definition is quite restrictive; in order for an area to qualify as a "wetland" it requires that all three wetland parameters be present. Although the Corps' definition is the most common definition used, it may result in the City or County losing some valuable wetlands. As an alternative to deferring to the Corps' definition, a local government might require an environmental impact review (see Module 6.5 of this model code) for proposed developments including areas shown on the NWI maps as wetlands. The U.S.

Fish and Wildlife Service's definition of wetland requires just one of the three wetland parameters to be present and would afford a higher degree of wetlands protection.

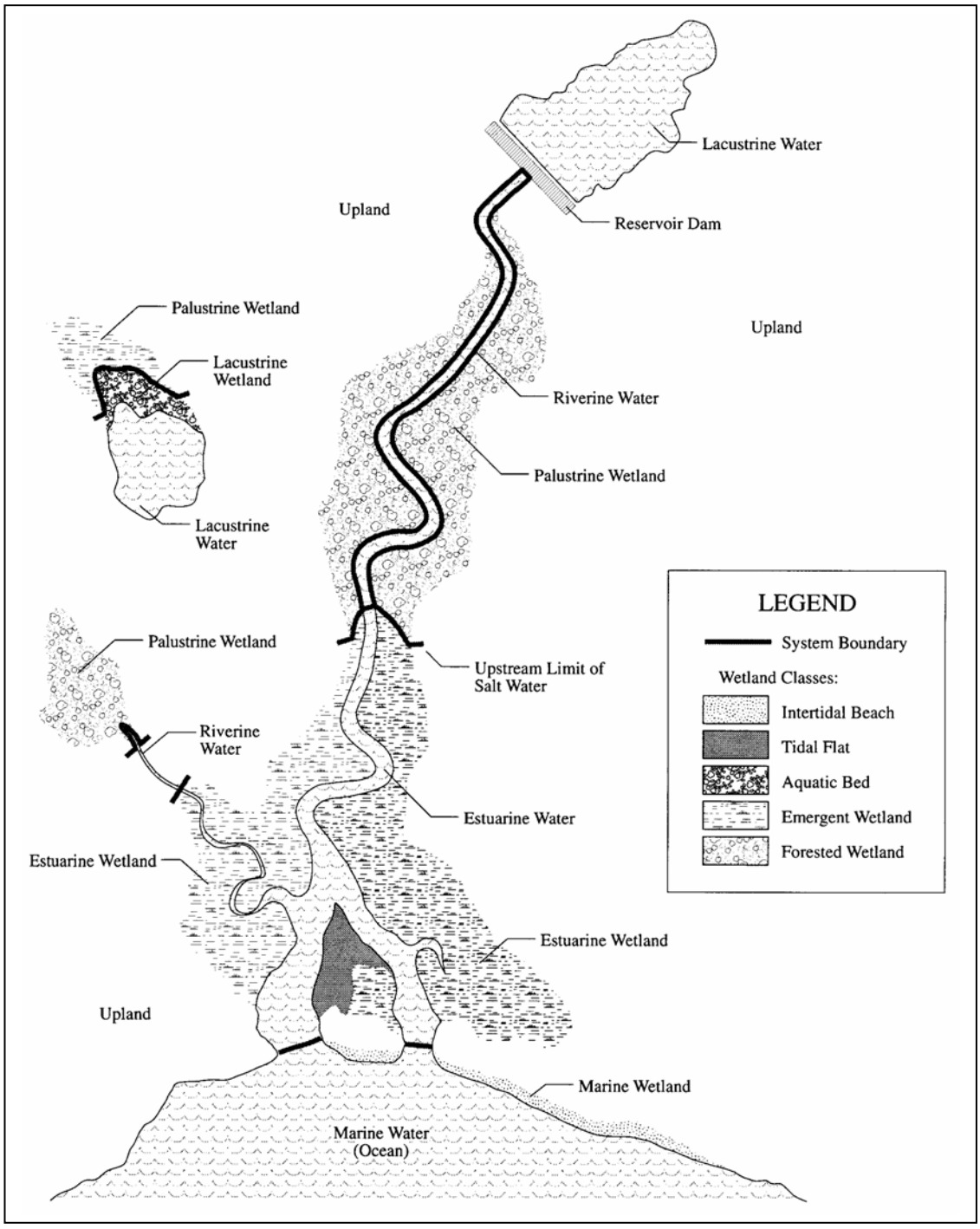
Jurisdictional wetland determination: A delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. §1344, as amended.

Regulated activity: Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U.S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

Wetlands: Those areas that are inundated or saturated by surface or groundwater 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 (see Figure 2-1-3.3.1). The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Figure 2-1-3.3.1

Types of Wetlands



Source: Tiner and Burke, 1995, http://www.mde.state.md.us/wetlands/wwr/Figure2w.htm

§2-1-3.4 Adoption of Generalized Wetlands Map by Reference. The Generalized Wetlands Map, as defined by this Resolution [Ordinance], together with all explanatory matter thereon, is hereby adopted by reference, and hereby made a part of this Resolution [Ordinance] as if fully set forth herein.

§2-1-3.5 Applicability. This Resolution [Ordinance] shall apply to all lands within the County [City] of _____ that are shown on the Generalized Wetlands map, as defined by this Resolution [Ordinance], as wetlands.

§2-1-3.6 Permit Required. No land use permit or building permit shall be issued by the Land Use Officer for a land use, building, structure, or manufactured home, nor shall any regulated activity as defined by this Resolution [Ordinance] commence, unless the land use, building, structure, manufactured home or regulated activity conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan or subdivision plat in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance].

§2-1-3.7 Jurisdictional Wetland Determination Required. If an area proposed for development is located within 50 feet of a wetland as shown on the Generalized Wetlands Map, as determined by the Land Use Officer, no local land use permit or building permit on said wetland shall be issued until a jurisdictional wetland determination has been completed and either of the following occur:

(a) The U.S. Army Corps of Engineers determines that there are jurisdictional wetlands present on the proposed development site, a Section 404 permit is required, and either a Section 404 Permit or a letter of permission is issued by the Corps for the proposed development; or,

(b) The U.S. Army Corps of Engineers determines that jurisdictional wetlands are not present on the proposed development site, and no Section 404 permit or letter of permission is required.

Commentary: Local governments must compare projects to their generalized wetlands maps to see if particular projects appear to be near or within a wetland. If they are, then the developer needs to consult with the U.S. Army Corps of Engineers before issuance of any local permit. If there are no jurisdictional wetlands on site, the local government permitting process can proceed.

If there are jurisdictional wetlands on the site that will be disturbed by the proposed development, the code section above requires that the applicant first obtain a wetlands permit or permission from the U.S. Army Corps of Engineers. The 50 feet, referenced in the above section, is considered an absolute minimum. Some local governments use 100-200 feet as a measurement to err on the safe side.

§2-1-3.8 Permitted uses. The following uses shall be allowed as of right within an area shown as a wetland on the Generalized Wetlands Map, to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein.

(a) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the Unites States in such a way that would require an individual 404 Permit.

(b) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.

(c) Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.

(d) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.

(e) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.

(f) Education, scientific research, and nature trails.

Commentary: The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances. Some activities that destroy or degrade wetlands, but are not regulated by Section 404, including timber harvesting and certain agricultural activities, are listed as possible permitted uses in the Environmental Planning Criteria for Wetlands Protection.

§2-1-3.9 Prohibited Uses. The following uses are prohibited within wetlands shown on the Generalized Wetlands Map:

(a) Receiving areas for toxic or hazardous waste or other contaminants.

(b) Hazardous or sanitary waste landfills.

(c) [List any other uses the local government wants to prohibit].

Commentary on How to Make this Ordinance Stand Alone: This module has been written to fit into a land use management code. As such, it relies on certain other sections of the model code, which have not been reiterated in this module. To make this ordinance "stand alone," the following provisions should be added in their entirety:

§2-0-1(A) PREAMBLE
§2-0-2 ADOPTION AND EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

Resources:

For a more detailed freshwater wetlands ordinance, see Yorktown, New York's ordinance as published in Michael A. Mantell, Stephen F. Harper, and Luther Propst, Resource Guide for Creating Successful Communities (Washington, DC: Island Press, 1990).

§2-1-4 PROTECTED RIVER CORRIDORS

Commentary on Applicability: The State of Georgia has promulgated standards for the protection of river corridors meeting a minimum threshold for water flow (400 cubic feet per second or more). This ordinance is specifically designed to implement the state Department of Natural Resources' Environmental Planning Criteria for Protected River Corridors. If the local government does not have any protected river corridors within its jurisdiction, then it does not need to adopt this ordinance.

§2-1-4.1 Title. This Resolution [Ordinance] shall be known and may be cited as a "Protected River Corridors Resolution [Ordinance]."

§2-1-4.2 Purpose. River corridors are the strips of land that flank major rivers in Georgia. These corridors are of vital importance to Georgia in that they help preserve those

qualities that make a river suitable as a habitat for wildlife, a site for recreation, and a source for clean drinking water. River corridors also allow the free movement of wildlife from area to area within the state, help control erosion and river sedimentation, and help absorb floodwaters. The [River Name] has been designated as a protected river by the State of Georgia. The purpose of this Resolution [Ordinance] is to establish measures to guide future growth and development in the areas adjacent to the protected river as defined herein. The river corridor regulations established in this Resolution [Ordinance] require the maintenance of buffers where natural vegetation is left intact along the banks of protected rivers. Preservation of the soil and plants within the corridor reduces non-point source pollution entering the river and minimizes riverbank erosion. The vegetation acts to slow down water flow and trap sediment and other contaminants carried in runoff before they reach downstream water supplies. This Resolution [Ordinance] also minimizes disturbance of the natural terrain and vegetation and protects water quality through various use limitations.

§2-1-4.3 Definitions.

Hazardous waste: Any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 C.F.R. Section 261.3. (Note: This is same definition as used in the Georgia Hazardous Waste Management Act.)

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

Natural vegetative buffer or buffer area: A river corridor containing the flora native to that area. The natural floras for specific areas are described in Georgia Geologic Survey Bulletin 114, "The Natural Environments of Georgia." Habitats for endangered and threatened species may require human management of the river corridor in order to maintain those species.

Perennial river: A river or section of a river that flows continuously throughout the year.

Port facility: Any facility for the docking, loading, and unloading of ships.

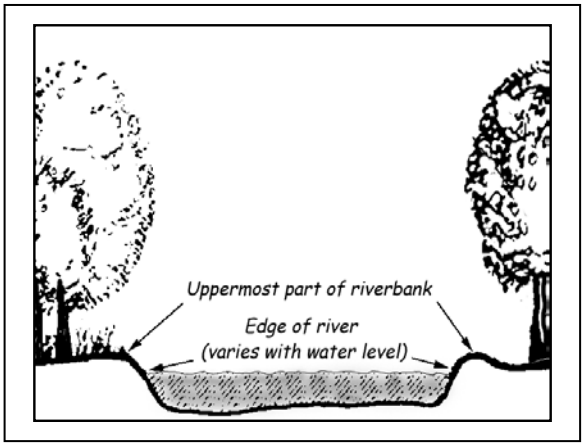
Protected river: Any perennial river or watercourse with an average annual flow of at least 400 cubic feet per second as determined by the appropriate U.S. Geological Survey quadrangle

map (the most recently published U.S. Geological Survey 7.5 minute topographic map prepared at a scale of 1:24,000). However, those segments of river covered by the Metropolitan River Protection Act or the Coastal Marshlands Protection Act are specifically excluded from the definition of a protected river. In coastal areas, the seaward limit of any protected river shall be the inland limit of the jurisdiction of the Coastal Marshlands Protection Act. The DNR has determined for administrative purposes that the line dividing protected coastal marshlands and protected river corridors is along the route of U. S. Highway 17.

Public utility or utilities: A service or services provided by a public utility company or a private entity which provides such service or services and all equipment and structures necessary to provide such services.

Riverbank: The rising ground, bordering a river, which serves to confine the water to the natural channel during the normal course of flow. Riverbanks are usually marked by a break in slope. (See Figure 2-1-4.3.1).

Figure 2-1-4.3.1
Riverbank



River corridor: All the land, inclusive of islands, not regulated under the Metropolitan River Protection Act (O.C.G.A. 12-5-440 through 12-5-457), or the Coastal Marshlands Protection Act (O.C.G.A. 12-5-280 through 12-5-293), in areas of a protected river and being within 100 feet horizontally on both sides of a protected river as measured from the riverbanks. Because stream channels move due to natural processes such as meandering, riverbank erosion, and jumping of channels, the river corridor may shift with time.

Commentary on Options for River Corridor Designation and Buffers: Local governments may choose to apply the minimum criteria for river corridor protection to other sections and lengths of rivers that are not designated by the Georgia DNR. Numerous local governments have applied river corridor protection controls along the entire length of the river corridor, not just along the corridors designated by the DNR. Some local governments also extend the buffer required to the community's identified 100- or 500-year floodplains, not simply beyond the bank of the river. However, such extension goes beyond minimum state requirements. No matter what river segments are identified, or whether wider than minimum buffers are required, river corridor

policy should be fully described in the comprehensive plan in order to provide additional legal rationale for any regulatory efforts.

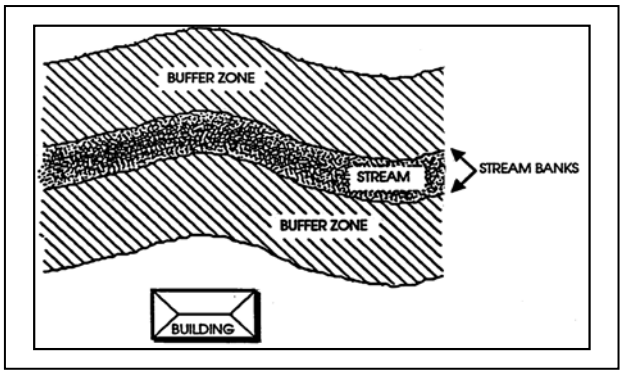
Sensitive natural area: Any area, as identified now or hereafter by the DNR, which contain one or more of the following: habitat, including nesting sites, occupied by rare or endangered species; rare or exemplary natural communities; significant landforms, hydroforms, or geological features; or other areas so designated by the DNR; and which are sensitive or vulnerable to physical or biological alteration.
Single-family dwelling: A dwelling structure that is designed for the use of one family or household.

§2-1-4.4 Applicability. This Resolution [Ordinance] shall apply to all protected rivers, as defined by this Resolution [Ordinance], and to all river corridors, as defined by this Resolution [Ordinance]. The regulations in this Resolution [Ordinance] shall not supercede those contained in the Metropolitan River Protection Act, the Coastal Marshlands Protection Act, and the Erosion and Sedimentation Act.

Commentary: In the spirit of simplifying implementation by local governments, the model code module does not require a map of protected rivers and the Rules for Environmental Planning Criteria do not require adoption of a map. However, local governments may at their discretion adopt a protected rivers map that illustrate river corridors on a map. This model code module does not require a map of protected rivers in the spirit of simplifying implementation by local government.

§2-1-4.5 Protected River Corridor Buffer Required. Along any protected river, as defined by this Resolution [Ordinance], the river corridor, as defined by this Resolution [Ordinance] shall be maintained as a natural vegetative buffer or buffer area as defined by this Resolution [Ordinance], except as specifically otherwise exempted or provided for in this Resolution [Ordinance]. (See Figure 2-1-4.5.1).

Figure 2-1-4.5.1
Buffer Along Protected River Corridor



§2-1-4.6 Measurement of Required Buffer. The 100-foot buffer shall be measured horizontally from the uppermost part of the riverbanks. Although not within the measured 100-foot wide buffer, the area between the top of the bank and the edge of the river shall be considered as within the 100-foot buffer required by this Resolution [Ordinance] and shall be afforded the same protection as the 100-foot buffer.

§2-1-4.7 Land Disturbing Activity within Required Buffer. All land disturbing activity, as defined by this Resolution [Ordinance], shall be prohibited within the required buffer area, except as specifically provided in this Resolution [Ordinance].

§2-1-4.8 Restoration of Disturbed Buffers. Any area within a required buffer that is disturbed per the allowances of this Resolution [Ordinance] shall be restored as quickly as possible following any land disturbing activity.

§2-1-4.9 Uses Prohibited Within Required Buffers. The following uses shall be prohibited within buffers required by this Resolution [Ordinance], unless specifically indicated otherwise in this Resolution [Ordinance].

(a) Facilities that receive and store hazardous waste, except as specifically provided in this Resolution [Ordinance].

(b) Septic tank and septic tank drainfields are prohibited in the river corridor, except as expressly provided otherwise in this Resolution [Ordinance].

(c) Hazardous waste or solid waste landfills.

(d) Local governments may exclude other unacceptable uses, as it deems appropriate.

§2-1-4.10 Uses Permitted Within Required Buffers.

(a) Agricultural production and management, provided that all such activities shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission and provided that such activities shall not impair the drinking quality of the river water as defined by the Federal Clean Water Act, as amended; and provided that such activities shall be consistent with all state and federal laws, and all regulations promulgated by the Georgia Department of Agriculture.

(b) Any use permitted by the Georgia DNR or under Section 404 of the Clean Water Act.

(c) Any use not prohibited by this Resolution [Ordinance] and not otherwise specified and regulated under the terms of this Resolution [Ordinance], that lawfully existed on the effective date of this Resolution [Ordinance] and falls within one of the following categories:

(1) Completed;

(2) Under construction;

(3) Fully approved by the governing authority;

(4) All materials have been submitted for approval by the governing authority; or,

(5) Zoned for such use and expenditures in excess of $2,500 have been made in preparation for construction in accordance with such zoning.

Commentary: The Rules state, "c) Land uses existing prior to the promulgation of a River Corridor Protection Plan means any land use or land-disturbing activity, including all human endeavors directly associated with such use or activity, which, prior to the promulgation of the River Corridor Protection Plan falls within one of the following categories:

(a) Is complete;

(b) Is under construction;

(c) Is fully approved by the governing authority;

(d) All materials have been submitted for approval by the governing authority; or

(e) Is zoned for such use and expenditures in excess of $2,500.00 have been made in preparation for construction in accordance with such zoning."

(d) Dwellings, including single-family detached and manufactured homes, including the usual appurtenances or accessory uses, subject to the following conditions:

(1) The dwelling shall be in compliance with all local land use regulations.

(2) The dwelling shall be located on a tract of land containing at least two acres. For the purposes of these standards, the size of the tract of the land shall not include any area that lies within the protected river. That is, for tracts of land that include portions of a protected river, the area between the riverbanks can not be counted towards the two-acre minimum size.

(3) There shall be only one such dwelling on each two-acre or larger tract of land.

(4) A septic tank or tanks serving such a dwelling may be located within the buffer area, but septic tank drainfields shall not be located within the buffer area.

<u>Commentary</u>: The state environmental planning criteria for river corridors specify a minimum lot size (two acres), but no minimum lot width. Local governments might want to set a minimum lot width (e.g., 200 feet) to supplement the state standards. Otherwise, very narrow two-acre lots could be created within river corridors.

(e) Industrial and commercial land uses existing in the river corridor on the effective date of this Resolution [Ordinance] provided that such existing land uses do not impair the drinking quality of the river water and meet all state and federal environmental rules and regulations.

(f) Mining activities, if permitted by the DNR pursuant to the Georgia Surface Mining Act of 1968, as amended.

(g) Port facilities that handle, receive and store hazardous waste, provided that they meet all federal and state laws and regulations for the handling and transport of hazardous waste and those facilities handling hazardous waste perform their operations on impermeable surfaces having spill and leak protection systems in

conformance with any applicable Environmental Protection Agency (EPA) spill prevention requirements and any local fire code requirements.

(h) Recreational uses consistent either with the maintenance of a natural vegetative buffer or with river-dependent recreation, specifically including paths, walkways, and boat ramps but excluding hard-surface tennis courts and parking lots.

(i) Road crossings and utility crossings, provided such construction meets all requirements of the Erosion and Sedimentation Control Act of 1975, and all applicable local ordinances on soil erosion and sedimentation control; provided further, that utilities shall only be allowed if they cannot feasibly be located outside the buffer, as decided conservatively by the Land Use Officer, and further provided that:

(1) The utilities shall be located as far from the riverbank as reasonably possible;

(2) Installation and maintenance of the utilities shall be such as to protect the integrity of the buffer area as well as is reasonably possible; and,

(3) Utilities shall not impair the drinking quality of the river water.

(j) Timber production and harvesting, provided that such uses do not impair the long-term functions of the protected river or the river corridor, provided that such forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission, and such activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.

(k) Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. 12-2-8.

(l) Waste-water treatment.

(m) Water quality treatment or purification.

§2-1-4.11 Land Use Permit and Site Plan Required. No land use permit or building permit shall be issued by the land use officer for a building, structure, or activity, unless the land use, building, or activity conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance].

§2-1-4.12 Subdivision Plats. Within an area governed by this Resolution [Ordinance], no subdivision plat shall be recorded until and unless said plat has been reviewed and approved by the Land Use Officer as being in compliance with any minimum lot size established by this Resolution [Ordinance].

Commentary on making this ordinance stand-alone: This module has been written so that it will fit into the land use management code. As such, it relies on certain other sections of the model code, which have not been reiterated in this module. To make this ordinance "stand alone," the following provisions should be added in their entirety:

§2-0-1(A) PREAMBLE
§2-0-2 ADOPTION AND EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

§2-1-5 MOUNTAIN PROTECTION

Commentary on Applicability: This ordinance is specifically designed to implement the state Department of Natural Resources' criteria relative to mountain protection pursuant to the Mountain and River Corridor Protection Act. A protected mountain includes all land area 2,200 feet or more above mean sea level, that has a percentage slope of 25 percent or greater for at least 500 feet, horizontally. It includes the crests, summits, and ridge tops that lie at elevations higher than any such area. This module is written for cities and counties in north Georgia with protected mountains within their jurisdiction. If your jurisdiction has no protected mountains as defined by state law and state administrative rules, then it is not necessary to adopt this code section.

§2-1-5.1 Purpose. Steep slopes and thin soils characterize the mountains of Georgia. Because of the natural stresses placed on such environments, they require special protection. Land-disturbing activity on the high-elevation, steep-slope mountains of Georgia potentially threatens the public health, safety, welfare, and economic progress of the state. Unregulated land-disturbing activity may endanger the quality of surface water by increasing erosion and stream sedimentation; has the potential to induce landslides; has the potential to adversely affect ground water due to the difficulty in providing proper sewage disposal in areas of steep

slope and high elevation; may damage the habitat for some species of wildlife (both plants and animals); and may detract from the mountains' scenic and natural beauty, which is vital to the recreation and tourism industry of North Georgia.

§2-1-5.2 Definitions.

Hazardous waste: Any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 C.F.R. Section 261.3.

Commentary: This is the same definition as used in the Georgia Hazardous Waste Management Act.

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

Multi-family dwelling: A structure that contains multiple dwelling units.

Protected mountain: All land area 2,200 feet or more above mean sea level that has a percentage slope of 25 percent or greater for at least 500 feet, horizontally, including the crests, summits, and ridge tops which lie at elevations higher than any such area.

Quadrangle map: The most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of 1:24,000.

Protected mountains map: A map, based on quadrangle maps for the local jurisdiction, prepared by or for the local jurisdiction showing all land areas meeting the definition of protected mountain.

Reforestation plan: A plan, prepared by a registered forester, for replacing harvested timber by replanting or by natural regenerative processes (such as coppicing, seed trees, etc.), consistent with the Recommended Best Management Practices for Forestry in Georgia, as published by the Georgia Forestry Commission.

Sensitive natural area: Any area, as identified now or hereafter by the Department of Natural Resources (DNR), which contains one or more of the following: habitat, including nesting sites,

occupied by rare or endangered species; rare or exemplary natural communities; significant landforms, hydroforms, or geological features; or other areas so designated by the Department of Natural Resources; and which is sensitive or vulnerable to physical or biological alteration. Single-family dwelling means a dwelling structure that is designed for the use of one family.

§2-1-5.3 Adoption of protected mountains map by reference. The protected mountains map, as defined by this Resolution [Ordinance], is hereby adopted and made a part of this Resolution [Ordinance] as if fully set forth herein.

Commentary: The city or county comprehensive plan should, per state administrative rules, provide a map of protected mountains. Such map might be detailed enough to be applied in the development review process. If not, local governments will need to create a protected mountains map. To create a protected mountains map, it is required that either U.S.G.S. 7.5 quadrangle maps or a plat map be used as a base. These quadrangle maps can be obtained from the Georgia Geologic Survey, Room 400, 19 Martin Luther King Jr. Drive, Atlanta, Georgia 30334. Phone: (404) 656-3214. Local governments should refer to their RDC for technical assistance with regard to preparing protected mountains maps.

§2-1-5.4 Applicability. This Resolution [Ordinance] shall apply to all lands within the County [City] of _____ that are protected mountains as defined by this Resolution [Ordinance] and as shown on the protected mountains map as defined by and made a part of this Resolution [Ordinance].

§2-1-5.5 Permit Required. No land use permit or building permit shall be issued by the Land Use Officer for any activity, land use, building, or structure within a protected mountain area, unless the activity, land use, building, or structure conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan or subdivision plat in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance]. All development activities or site work conducted after approval of the site plan shall conform to the specifications of said site plan.

§2-1-5.6 Development Regulations. Except as more specifically provided herein, the following regulations shall apply.

(a) Proposed land-disturbing activity shall meet all applicable requirements of the "Erosion and Sedimentation Act of 1975" as amended, and all applicable local ordinances on soil erosion and sedimentation control.

(b) Where one or more septic tanks are to be used for individual sewage disposal, the proposed land-disturbing activity shall meet all applicable requirements imposed by the Local Governing Authority.

(c) Where one or more wells are to be used for an individual's water supply, the proposed land-disturbing activity shall meet all applicable requirements of the "Water Well Standards Act of 1985"; the requirements of the rules and regulations of the Department of Human Resources regarding individual or nonpublic wells; [and, any more stringent requirements imposed by the local governing authority].

(d) If sewage treatment is to be provided by any means other than one or more individual septic tanks, the sewage treatment shall meet all applicable requirements of the "Georgia Water Quality Control Act."

(e) If a public water supply system is to be provided, the water supply system shall meet all applicable requirements of the "Georgia Safe Drinking Water Act of 1977."

(f) Single-family dwellings shall not be constructed at a density of more than one per acre and no such acre shall be less than 100-feet wide at the building site. This density restriction shall not apply to:

(1) Any lot of less than one acre, if such a lot was, as of the date of the adoption of this Resolution [Ordinance], owned and described as a discrete parcel of real property according to the instrument of title of the person or persons owning the lot on said date;

(2) Any lot of less than one acre, if such a lot was, as of the date of the adoption of this Resolution [Ordinance], shown as a discrete parcel of real property on a plat of survey properly recorded in the real property records of the clerk of superior court by the person or persons owning the lot on said date; or,

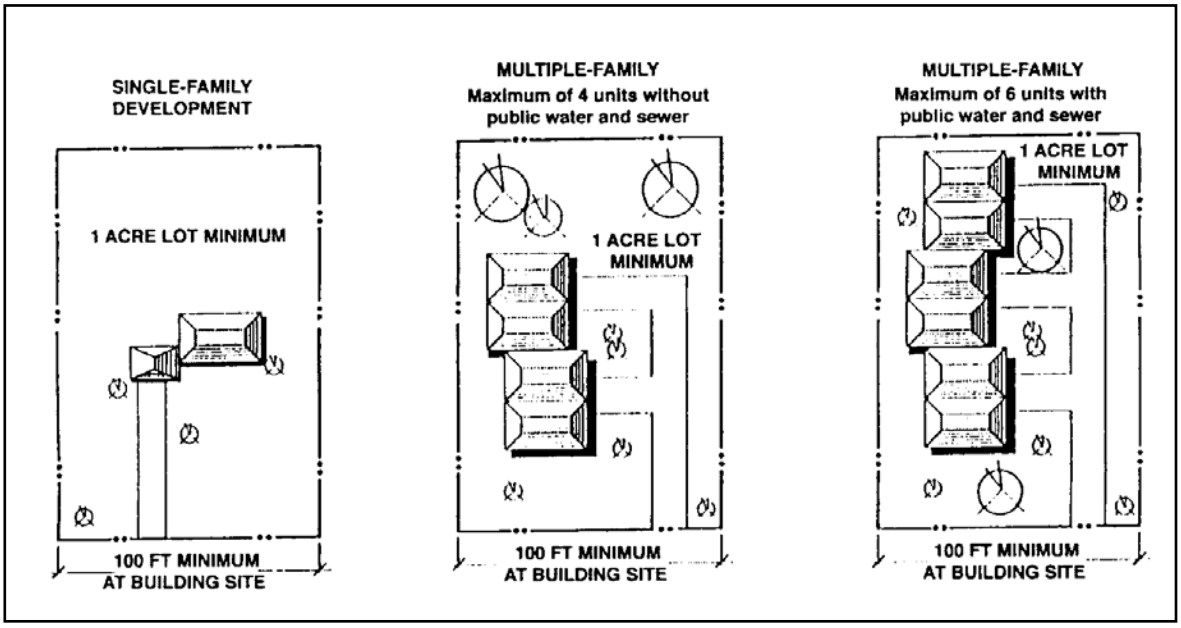
(3) Any land, or part of any land, which was contained in or subject to any master plan, planned unit development plan, special approved development plan, or any other development plan if such plan was filed with and approved by the Local Governing Authority prior to the date of

the adoption of this Resolution [Ordinance], pursuant to a duly enacted local Resolution [Ordinance]; provided further, that any such Resolution [Ordinance] must have provided for rules and procedures and governed lot sizes, density, types of buildings, and other limitations usually associated with the implementation of local zoning ordinances.

Commentary: Vested rights accrue at the time of application, not approval.

(g) Multi-family dwellings, in the absence of a public water supply and sewerage system, shall not be constructed at a density of more than four dwelling units per acre. If there is a public water supply and sewage system available to this property, then the density may be increased to no more than six dwelling units per acre. Regardless of which type of system, no such acre shall be less than 100 feet wide at the building site. (See Figure 2-1-5.6.1).

Figure 2-1-5.6.1
Protected Mountain Residential Density Regulations

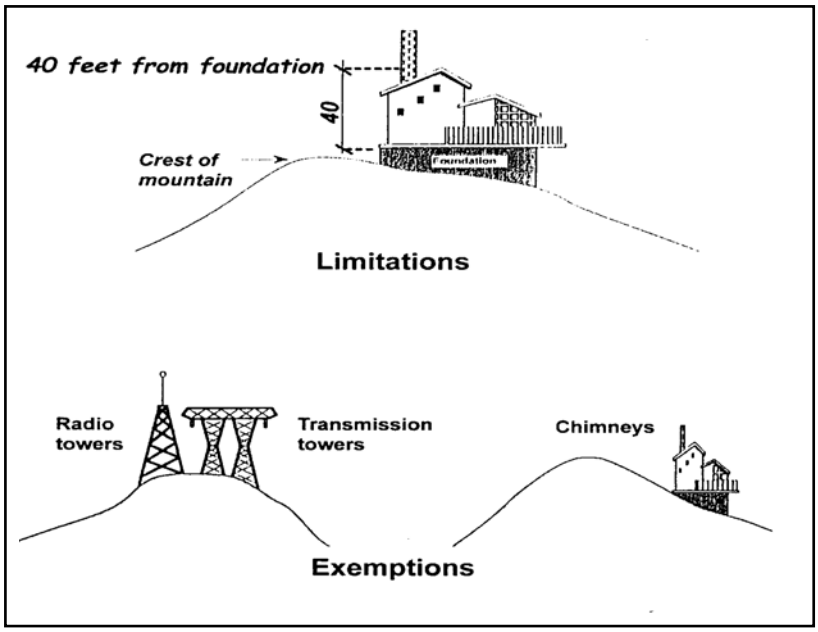


(h) Structures shall not extend more than 40 feet, as measured from the highest point at which the foundation of such structure intersects the ground, above the

uppermost point of the crest, summit, or ridge top of the protected mountain on which the structure is constructed. This height restriction shall not apply to water, radio, or television towers; to any equipment for transmission of electricity; to minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires; or to windmills. (See Figure 2-1-5.6.2).

Commentary: These height exemptions mirror the state's mountain protection criteria. Local governments may establish height limits on those structures exempted in the paragraph above.

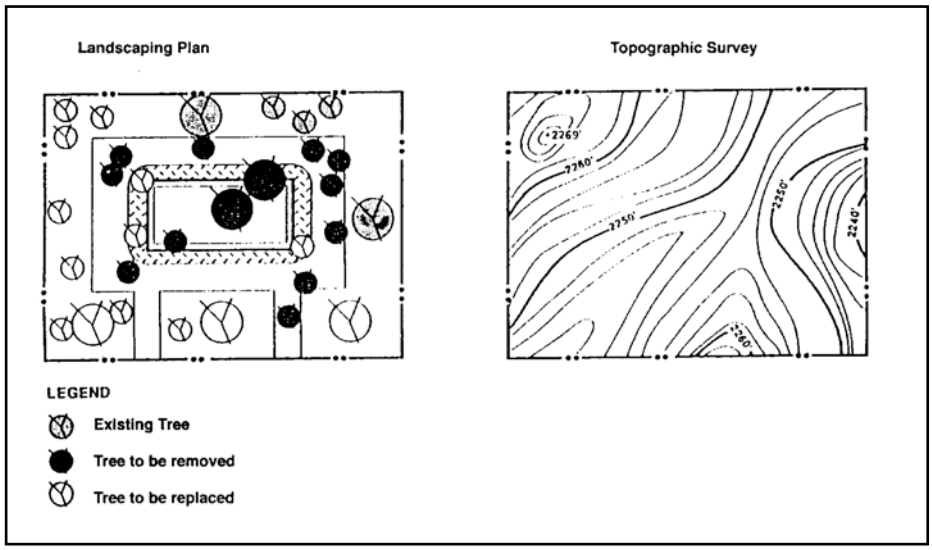
Figure 2-1-5.6.2
Protected Mountain Height Limits and Exemptions from Height Limits



(i) Any application for a local building permit to construct a commercial structure shall contain a detailed landscaping plan (see Figure 2-1-5.6.3). Such landscaping plan shall: identify all trees which are to be removed that exceed eight inches in diameter as measured at a point on the tree four and one-half feet above the surface of the ground; contain a plan for replacement of any such trees that are removed; and include a topographical survey of the project site and an assessment of the effect that the project will have on the environment of the

protected mountain after the project has been completed and is in operation. All development activities or site work conducted after approval of the plan shall conform to the specifications of said plan. Nothing in this paragraph shall be construed to require commercial structures to comply with the density provision of single-family and multi-family dwellings.

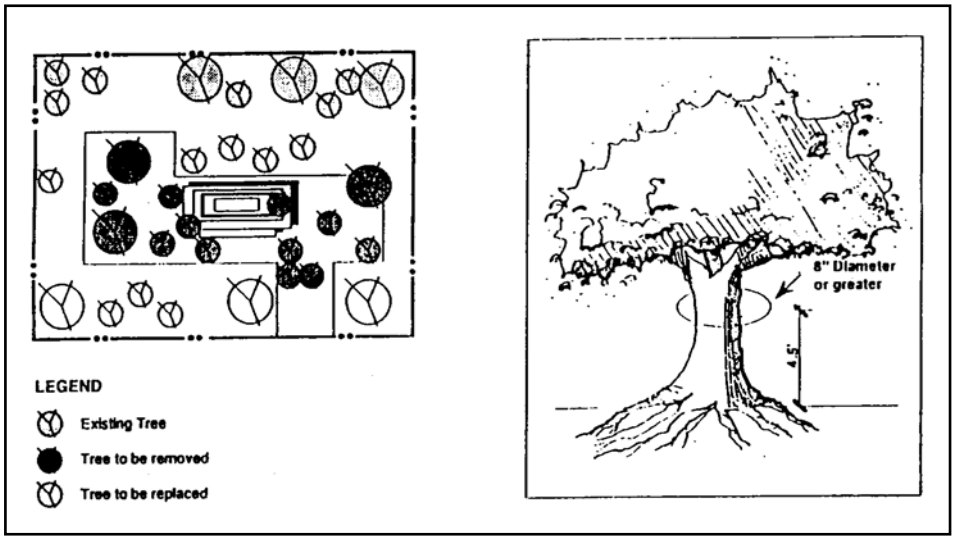
Figure 2-1-5.6.3
Landscaping Plan and Topographic Survey



(j) Tree Removal. No person engaging in land-disturbing activity shall remove more than 50 percent of the existing trees which exceed eight inches in diameter as measured at a point on such a tree four and one-half feet above the surface of the ground; unless such person has filed, with the application, a plan of reforestation developed by a registered forester. All development activities or site work conducted after approval of the plan shall conform to the specifications of said plan. (See Figure 2-1-5.6.4).

Figure 2-1-5.6.4

Tree Protection Plan



(k) Handling areas for the receiving and storage of hazardous waste are prohibited.

(l) Hazardous waste or solid waste disposal facilities are prohibited. Disposal facilities permitted by the Environmental Protection Division prior to the Resolution [Ordinance] adopted effective date shall be exempt from this criterion.

(m) All roads on protected mountains shall be designed and constructed to minimize the potential for landslides, erosion, and runoff.

§2-1-5.7 Exemptions. The following land uses or activities are exempt from the requirements of this Resolution [Ordinance].

(a) Agriculture and forestry on protected mountains, provided that they are consistent with the best management practices established by the Georgia Forestry Commission or the Georgia Soil and Water Conservation Commission, consistent with all state and federal laws, and all applicable regulations promulgated by the Georgia Department of Agriculture.

(b) Mining activity on protected mountains if such activity is permitted by the DNR.

§2-1-6 FLOOD DAMAGE PREVENTION

Commentary on Applicability: This module is based on the model ordinance for flood damage prevention as authored by the Federal Emergency Management Agency (FEMA). Flood hazard areas are those areas identified on floodplain maps prepared and published by FEMA. If your community has flood-prone areas, these will be identified on FEMA floodplain maps, and your jurisdiction should adopt the following ordinance. Once this code section is adopted, property owners will have access to flood insurance through the National Flood Insurance Program. Because the standards contained in this ordinance are designed to ensure protection from flood hazard as required by FEMA, the requirements should not be altered except as may be needed to make its provisions match local permitting procedures. If there are no flood-prone areas mapped in your jurisdiction, then it is not necessary to adopt this code section.

Commentary: Flood-prone areas are those areas that are subject to periodic inundation by floodwaters. Development in flood-prone areas should be avoided, since the potential for the loss of property due to flooding is very high. A one hundred-year floodplain means that flooding has a one-percent statistical probability of occurring in any given year. However, if the drainage basin has been extensively developed and more than five to ten percent of the basin or watershed consists of impervious surface, then the one hundred year flood will occur much more frequently than once in each century. This flood damage prevention ordinance is intended to provide development standards to help avoid loss of property due to flooding.

Commentary on Availability of Mapping. Flood hazard maps are not available in many parts of rural Georgia. Naturally, this hinders a local government's ability to adopt and enforce flood hazard areas when data are not available. More extensive efforts are needed by federal and state emergency management agencies before all rural local governments have the data needed to identify, regulate, and enforce flood hazard area regulations.

§2-1-6.1 Short Title. This Resolution [Ordinance] shall be known and may be cited as the flood damage prevention resolution [ordinance] of the County [City] of _____.

§2-1-6.2 Findings. The flood hazard areas in the local jurisdiction are subject to periodic inundation which potentially results in loss of life and property, health and safety

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

§2-1-6.3 Purposes. It is the purpose of this Resolution [Ordinance] to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosions or in flood heights or velocities;

(b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

§2-1-6.4 Objectives. The objectives of this Resolution [Ordinance] are:

(a) To protect human life and health;

(b) To minimize expenditure of public money for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and

(g) To ensure that potential homebuyers are notified that property is in a flood area.

§2-1-6.5 Definitions. Unless specifically defined below or otherwise in this Resolution [Ordinance], words or phrases used herein shall be interpreted so as to give them the meaning they have in common usage and to give this Resolution [Ordinance] its most reasonable application.

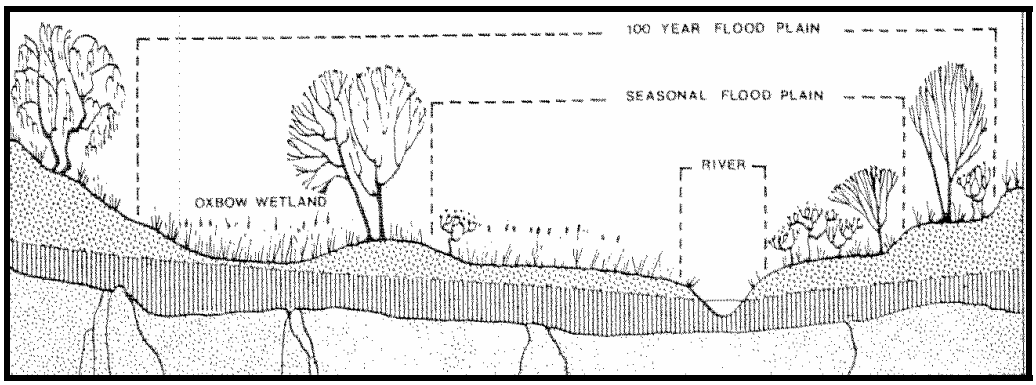
Addition to an existing building: Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.
Appeal: A request for a review of the Land Use Officer's interpretation of any provision of this Resolution [Ordinance].
Area of shallow flooding: A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
Area of special flood hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.
Basement: That portion of a building having its lowest floor subgrade (below ground level) on all sides.
Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
Building: Any structure built for support, shelter, or enclosure for any occupancy or storage.
Dam break flood zone: That area within the flood contour elevations subject to flooding as based upon information obtained from the U.S. Corps of Engineers or other federal, state, or county agencies, or local hydraulic studies which occur from any seepage or failure of any dam.
Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.

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

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source. (See Figure 2-1-6.5.1).

Figure 2-1-6.1

Flood Plain



Source: Stokes, Samuel L., et al. 1989. Saving America's Countryside: A Guide to Rural Conservation. Baltimore: Johns Hopkins University Press.

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

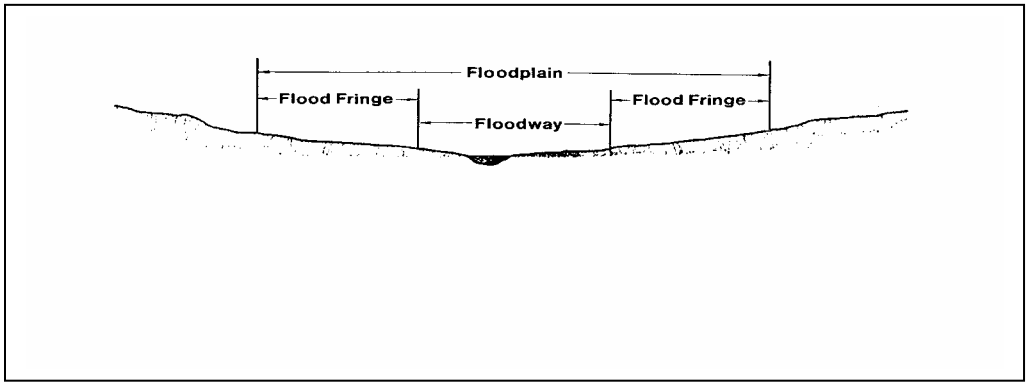
Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. Floodways are identified on floodway maps for areas where such mapping has been completed. Floodways are extremely hazardous areas due to the velocity of floodwaters, the carrying of debris, and the capacity for severe erosion potential. (See Figure 2-1-6.5.2).

Figure 2-1-6.5.2

Floodway



Source: DeChiara, Joseph, and Lee E. Koppelmann. 1984. Time Saver Standards for Site Planning. New York: McGraw-Hill.

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

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

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

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

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

New construction: A building for which the "start of construction" commenced on or after the effective date of this ordinance.

Start of construction: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date.

The actual start means the first placement of permanent construction of a building on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building.

Structure: A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructure.

Substantial improvement: Any combination of repairs, reconstruction, alteration, or improvements to a building in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the building. The market value of the building should be the appraised value of the building prior to the start of the initial repair or improvement, or in the case of damage, the value of the building prior to the damage occurring. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions.

Variance: A grant of relief from the requirements of this Resolution [Ordinance] that permits construction in a matter otherwise prohibited by this Resolution [Ordinance] where specific enforcement would result in unnecessary hardship.

§2-1-6.6 Applicability. This Resolution [Ordinance] shall apply to all areas of special flood hazard as defined by this Resolution [Ordinance], as may be identified on the Flood Hazard Boundary Map, Flood Insurance Rate Map, or in the Flood Insurance Study as appropriate within the local jurisdiction.

Commentary: There may be ambiguity in this provision because of the reference to two different sets of maps and a study. Flood insurance studies specify flood elevations and therefore need to be referenced because they are likely to be consulted in specific instances. Flood-prone areas are usually shown on both flood hazard boundary maps and flood insurance rate maps, to the extent they exist for a given local jurisdiction. Local governments with both maps should consider whether reference to only one of the maps would suffice, rather than both, to lesson the potential for ambiguity.

§2-1-6.7 Adoption of Maps and Studies by Reference. The areas of special flood hazards identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map, Flood Insurance Rate Map, or in the Flood Insurance Study, as appropriate, dated (month and year), with accompanying maps and other supporting data, and any revision thereto, are hereby adopted by reference and declared to be a part of this Resolution [ordinance]. When base flood elevation data or floodway data are not available, then the Land Use Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this Resolution [Ordinance].

§2-1-6.8 Interpretation of Map Boundaries. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Land Use Officer shall make the necessary interpretation. Any person who desires to contest the interpretation by the Land Use Officer of the location of any such boundary may appeal the interpretation of the Land Use Officer as provided in this Resolution [Ordinance].

§2-1-6.9 Permit Required. No development activity shall commence within an area regulated by this Resolution [ordinance] until and unless a land use permit shall have been approved and issued by the Land Use Officer. No development activity shall be approved unless it is in conformance with the provisions of this Resolution [Ordinance] prior to the commencement of any development activities. No building or structure shall be constructed within an area regulated by this Resolution [ordinance] until and unless a land use permit shall have been approved and issued by the Land Use Officer. No building or structure shall be approved unless it is in conformance with the provisions of this Resolution [Ordinance] prior to the construction of said building or structure.

Commentary: For local jurisdictions with building permit requirements, "building permit" can and should be substituted for "land use permit" with regard to buildings and structures.

§2-1-6.10 Compliance. No structure shall hereafter be located, extended, converted, or structurally altered, and no land shall be developed or occupied, unless it complies fully with the terms of this Resolution [Ordinance] and other applicable regulations.

§2-1-6.11 Application Requirements for Development. Applications for approval of any development within an area regulated by this Resolution [Ordinance] shall be made to the Land Use Officer on forms furnished by him or her. At a minimum, the application shall include the following:

(a) Plans. Plans drawn to scale showing the nature, location, dimensions, and elevations of the land, existing or proposed buildings or structures if any, proposed fill, and storage of materials, and drainage facilities.

(b) Watercourse modifications. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

§2-1-6.12 Application Requirements for Building Construction. Applications for approval of any building or structure within an area regulated by this Resolution [Ordinance] shall be made to the Land Use Officer on forms furnished by him or her. At a minimum, the application shall include the following:

(a) Elevations. The elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings.

(b) Flood-proofing certificate. In the case of a building that is required to be flood-proofed by this Resolution [ordinance], a certificate from a registered professional engineer or architect that the building to be flood-proofed will meet the flood-proofing requirements of this Resolution [ordinance].

§2-1-6.13 Elevation Certificate Required Prior to Building Occupancy. No building shall be occupied until the requirements of this subsection are met. After the lowest floor of a building is completed, after placement of the horizontal structural members of the lowest floor, or upon placement of the lowest floor to be flood-proofed, whichever is applicable, it shall be the duty of the permit holder to submit to the Land Use Officer a certification of the as-built elevation in relation to mean sea level of the lowest floor, the elevation of the lowest portion of the horizontal structural members of the lowest floor, or a flood-proofed elevation, whichever is applicable. Said certificate shall be prepared by, or under the direct supervision of, a registered land surveyor or professional engineer and certified by same. Upon submittal of any required elevation certificate, the Land Use Officer shall review the floor elevation certificate for compliance with this Resolution [Ordinance]. The permit holder immediately and prior to authorization to proceed with further work shall correct any deficiencies detected by such

review. Failure to submit the elevation certificate or failure to make any corrections required by the Land Use Officer shall be cause for issuing a stop-work order on the project.

§2-1-6.14 Floodways. Encroachments, including fill, new construction, substantial improvements, or any other development shall be prohibited unless certification, with supporting technical data, by a registered professional engineer is provided which demonstrates that encroachments shall not result in an increase in flood levels of more than one foot in elevation during the occurrence of the base flood discharge.

Commentary: This provision allows for encroachments if flood studies prepared by a registered professional engineer are completed showing a one foot or less increase in the flood elevation. The cumulative impact of floodway encroachments and the resulting increases in the height of flood levels, however, could cause severe damage. Accordingly, communities should seriously consider prohibiting all development within floodways. Furthermore, some communities prohibit the construction of buildings and structures and severely limit land uses within the flood plains as well, due to the displacement of floodwaters and the increased need for downstream flood storage capacity when upstream flood plain storage capacity is eliminated.

§2-1-6.15 General Regulations for Construction. New buildings or structures, or substantial improvements, and related development or facilities in all areas of special flood hazard shall conform to the following regulations. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Resolution [Ordinance] shall meet the requirements of this subsection.

(a) They shall be anchored to prevent floatation, collapse or lateral movement of the structure.

(b) They shall be constructed with materials and utility equipment resistant to flood damage, and by methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(f) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

§2-1-6.16 Requirements for Elevating Residential Buildings. In all areas of special flood hazard where base flood elevation data have been provided, new construction or substantial improvements of any residential building shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. If solid foundation perimeter walls are used to elevate a residential building, openings sufficient to facilitate the unimpeded movements of floodwater shall be provided as required by this Resolution [Ordinance].

§2-1-6.17 Requirements for Elevating Nonresidential Buildings. In all areas of special flood hazard where base flood elevation data have been provided, new construction or substantial improvements of any institutional, commercial, industrial, or other non-residential building shall have the lowest floor, including basement, elevated no lower than two feet above the level of the base flood elevation. Buildings located in all A-zones (see definition of "areas of shallow flooding") may be flood-proofed in lieu of being elevated as required by this subsection, provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Land Use officer as required in this section.

Commentary: The two subsections above establish what is commonly referred to as a "freeboard" requirement. At minimum, new buildings and substantial improvements must be at least one foot above the base flood elevation. Some communities may wish to (and many communities do) provide higher elevation requirements (freeboards) to allow for some additional protection in the event flood waters exceed the base flood elevation. Given the possibility of

flood data being inaccurate, a higher freeboard requirement should be strongly considered, perhaps up to four feet above the base flood elevation.

§2-1-6.18 Requirements for Fully Enclosed Areas below the Base Flood Elevation. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall not be designed or used as finished space. In addition, said fully enclosed areas shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls, in accordance with the following requirements:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

A professional engineer or architect shall certify that the designs of new construction or substantial improvement, which includes fully enclosed area formed by foundation and other exterior walls below the base flood elevation, complies with the requirements of this subsection, prior to occupancy of the building.

§2-1-6.19 Requirements for Streams without Established Base Flood Elevation and/or Floodways. Located within the areas of special flood hazard where small streams exist but where no base flood data have been provided or where no floodways have been provided. In such areas, no encroachments shall be allowed unless certification by a registered professional engineer is provided and approved by the Land Use Officer, demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. New construction or substantial improvements of buildings within such areas shall be elevated or flood-proofed to elevations established by this Resolution [Ordinance].

§2-1-6.20 Requirements for Areas of Shallow Flooding (AO Zones). Areas designated as shallow flooding areas are located within special flood hazard areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In such areas the following regulations shall apply:

(a) Residential buildings. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to a height specified by the Land Use Officer based on available information as may be supplied by the County [City] Engineer.

Commentary: This provision appears arbitrary because it does not set a specific minimum required height for a residential dwelling to be elevated above a shallow flooding area. This is because such elevation cannot be precisely established in all cases. However, to avoid vagueness, the local government should establish a specific height elevation (e.g., one foot above the shallow flood elevation) based on its local knowledge of shallow flooding zones in the section above (for residential dwellings) and below (for nonresidential buildings).

(b) Nonresidential buildings. All new construction and substantial improvements of non-residential buildings shall have the lowest floor, including basement, elevated to a height specified by the Land Use Officer based on available information as may be supplied by the County [City] Engineer. In addition, any attendant utility and sanitary facilities shall be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

§2-1-6.21 Dam Break Flood Zone. No residential building shall be allowed to be constructed within the dam break flood zone.

§2-1-6.22 Variances Authorized. The Board of Appeals, as established in section 7.2 of this code, shall hear and decide any requests for variances from the requirements of this Resolution [Ordinance]. Upon consideration of the criteria for approving variances as provided

by this Resolution [Ordinance], the Board of Appeals may approve or deny applications for variances. The Board of Appeals may attach such conditions to the granting of variances, as it deems necessary to further the purpose of this Resolution [Ordinance].

Commentary: If the local government does not create a Board of Appeals to hear variances as specified this subsection, it may substitute the governing body or another body such as the planning commission (or appoint a hearing examiner) to hear and decide variances.

§2-1-6.23 Criteria for Approving Variances. In ruling on applications for variances, the board of appeals shall consider all technical evaluations, all relevant factors, all regulations specified in this Resolution [ordinance], and the following criteria:

(a) The danger of materials being swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

§2-1-6.24 Additional Limitations on Variances.

(a) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(c) Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Commentary: The two sections above establish numerous criteria for granting a variance. As this ordinance is based on prior models prepared by the Federal Emergency Management Agency, such a rigorous description of grounds for variances is not surprising. Local governments should keep in mind that the multiple criteria established in this code section for variances should be trimmed down if possible, because the multiple criteria demand too much attention. Approval of a variance could be challenged on grounds that the approval authority failed to consider all relevant criteria.

§2-1-6.25 Requirements when Variances are Granted. Any applicant to whom a variance is granted shall be given written notice by the Land Use Officer specifying the difference between the base flood elevation and the elevation to which the building is to be built, and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The Land Use Officer shall maintain the records of all variances and submit them to the Federal Emergency Management Agency upon request.

§2-1-6.26 Administration and Duties of the Land Use Officer. This Resolution [Ordinance] shall be administered by the Land Use Officer. The Land Use Officer shall have the following duties in connection with the administration of this Resolution [Ordinance]:

(a) Review all permit applications to assure that the permit requirements of this Resolution [ordinance] have been satisfied.

(b) Advise applicants that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the locally approved permit.

(c) Notify adjacent affected communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) Receive and review elevation certificates and floodproofing certificates for all new or substantially improved buildings, for compliance with this Resolution [Ordinance].

(f) Interpret the provisions of this Resolution [Ordinance]. In the interpretation and application of this ordinance all provisions shall be considered as minimum requirements. They shall be liberally construed in favor of the governing body, and the provisions of this Resolution [Ordinance) shall not be deemed to limit or repeal any other powers granted under state statutes.

(f) Maintain all records pertaining to the provisions of this Resolution [Ordinance], which shall be open for public inspection.

§2-1-6.27 Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the (local government) or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Commentary: This module is written as a part of an overall land use management system. However, it can be easily adopted as a stand-alone resolution or ordinance, if the following other provisions are included in the adopted ordinance:

§ 2-0-1(A) PREAMBLE (although some of it may not be considered necessary)
§ 2-0-2 EFFECTIVE DATE
§ 2-0-3 LEGAL STATUS PROVISIONS
§ 2-0-4 APPEALS, ENFORCEMENT, AND PENALTIES

§2-1-7 SOIL EROSION AND SEDIMENTATION CONTROL

Commentary: Soil erosion results in contamination of Georgia's waterways. Soil chokes streams, rivers, and lakes, blocking light and reducing the amount of dissolved oxygen to levels below what is required to support aquatic life. The single most important action local governments can take to improve local and regional water quality is to enforce erosion and sedimentation control standards to reduce the amount of soil that leaves land disturbance sites during rainfall events.

Commentary: This Resolution [Ordinance] has been prepared based on a model provided by the Georgia Department of Natural Resources. Because the DNR has specific requirements for recognizing "Issuing Authorities," the model has been retained substantially in its recommended form, although some elements of the regulations have been reorganized.

§2-1-7.1 Title. This Resolution [Ordinance] will be known as Soil Erosion and Sedimentation Control Ordinance.

§2-1-7.2 Definitions. The following definitions shall apply in the application, interpretation, and enforcement of this Resolution [Ordinance], 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 for all rainfall events up to and including a 25-year rainfall event. Any land-disturbing activity governed by these Resolution [Ordinance] provisions require, as a minimum, 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 State Soil and Water Conservation

Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

(a) Stripping of vegetation, regrading, and other development activities shall be conducted in such a manner so as to minimize erosion.

(b) Cut and fill operations must be kept to a minimum.

(c) Development plans must conform to topography and soil type, so as to create the lowest practicable 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 measures must 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 this chapter.

(j) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces 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 adversely affecting other property owners.

(m) Grading equipment that must go across flowing streams by means of bridges or culverts, except when such methods are not feasible, provided, in any case, that such crossings must be 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 O.C.G.A. §12-7-6(a).

Board: The Board of Natural Resources of the State of Georgia.

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 and 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. Also known as excavation.

Department: The Department of Natural Resources of the State of Georgia.

District: The (name of appropriate) Soil and Water Conservation District.

Division: The Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

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 stormwater management, drainage control, or flood control purposes.

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.

Ground elevation: The original elevation of the ground surface 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 contouring 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.

Issuing Authority: The governing body of _____ County [or the City of _____] [whichever adopts the Resolution [Ordinance]].

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 Resolution [Ordinance].

Metropolitan River Protection Act (MRPA): A state law referenced as O.C.G.A. 12-5-440 et. seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Commentary: Only certain local governments in the Atlanta metropolitan region are subject to the requirements of MRPA. If it does not apply, provisions related to MRPA can be deleted from the Resolution [Ordinance].

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 colloidally dispersed particles are present.

Permit: The authorization necessary to conduct a land disturbing activity under the provisions of this Resolution [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 and land to be disturbed.

Proper design or properly designed: Best management practices that are designed to control soil erosion and sedimentation for all rainfall events up to and including a 25 year, 24 hour rainfall event.

Roadway drainage structure: A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible 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 approval plan: An erosion and sedimentation control plan approved in writing by the (name of applicable) soil and water conservation district.
Stabilization: An activity that secures soil cover or vegetation by installing temporary or permanent structures to reduce or minimize the erosion process and the resulting transport of sediment by wind, water, ice or gravity.
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 or 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."
Trout streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et. seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown, or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Commentary: Much of the state does not contain trout streams. Most ordinances, particularly those below the "fall line," can delete provisions pertaining to trout streams from their ordinances.

Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with permanent seeding, sprigging, or planting, producing long term vegetative cover; temporary seeding, producing short term vegetative cover; or sodding, covering areas with a turf or perennial sod farming 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, including any area adjacent thereto subject to inundation by reason of overflow of floodwater.

Wetlands: Those areas that are inundated or saturated by surface or groundwater 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.

§2-1-7.3 Exemptions. This Resolution [Ordinance] shall apply to any land disturbing activity undertaken by any person on any land except for the following:

(a) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "Mineral Resources and Caves Act."

(b) Granite quarrying and land clearing for such quarrying.

(c) 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) The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two lots and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in this Resolution [Ordinance]. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feel, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the Issuing Authority may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for

first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted.

(e) 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 aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds.

(f) 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 Resolution [Ordinance], 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) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture.

(h) Any project involving one and one tenth acres or less; provided, however, that this exemption shall not apply to any land disturbing activity 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 one and one-tenth acres or less, 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 property is located and provided, further, that nothing contained herein shall prevent the issuing authority from regulating any such project which is not specifically exempted by other provisions of this Resolution [Ordinance].

(i) 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 such projects shall conform to the minimum requirements set forth in this Resolution [Ordinance]; provided further that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb five or more contiguous acres of land shall be subject to provisions of O.C.G.A.12-7-7.1.

(j) 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, provided that any such land disturbing activity shall conform to the minimum requirements set forth in this Resolution [Ordinance].

§2-1-7.4 General Provisions. Excessive soil erosion and resulting sedimentation can take place during land disturbing activities. Therefore, plans for those land-disturbing activities that are not exempted by this Resolution [Ordinance] 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 Resolution [Ordinance]. 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.

§2-1-7.5 Enforcement and Violations.

(a) Where this Resolution [Ordinance] requires compliance with the minimum requirements set forth in this Resolution [Ordinance], Issuing Authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.

(b) Proper design, installation, and maintenance of BMPs shall constitute a complete defense to any action by the Issuing Authority or to any other allegation of

noncompliance with this section or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act". A discharge of stormwater runoff from disturbed areas where BMPs have not been properly designed, installed, and maintained shall constitute a separate violation of any land disturbing permit issued by a local Issuing Authority or by the Division or of any general permit for construction activities issued by the Division pursuant to subsection (f) of Code Section 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 or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the Issuing Authority.

(c) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land disturbing permit issued by a local Issuing Authority, or any general permit for construction activities issued by the 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.

(d) The Issuing Authority may require, in accordance with regulations adopted by the Board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.

(e) 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 Resolution [Ordinance] or the terms of the permit.

Best management practices as defined by this Resolution [Ordinance] shall be required for all land disturbing activities.

§2-1-7.6 Minimum Buffer Required for State Waters. There shall be a 25-foot wide buffer along the banks of all state waters as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the Issuing Authority pursuant to O.C.G.A. 12-2-8 allows a variance that is at least as protective of natural resources and the environment, 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; provided, however, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Issuing Authority as provided in this paragraph.

Commentary: The 25-foot buffer is minimal but complies with state law. A 50-foot buffer is much better in terms of protecting riparian resources.

§2-1-7.7 Minimum Buffer Required for Trout Streams. There shall be a 50-foot wide buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of Title 12, the Georgia Water Quality Control Act, except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the Board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The Issuing Authority may grant a variance from such buffer to allow land disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented.

Commentary: As noted previously, most local governments in Georgia do not have trout streams and thus can omit this section.

§2-1-7.8 Activities Within Buffers. The following requirements shall apply to any buffer required along the banks of all state waters and trout streams. No land disturbing activities shall be conducted within a buffer. The 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, vegetation in the buffer may be thinned or trimmed 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.

§2-1-7.9 Permit Required. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of (name of local government) without first obtaining a permit from the (office of local government) to perform such activity. A complete application for a permit as required by this Resolution [Ordinance] shall be submitted to the (designated local government official).

§2-1-7.10 Permit Applicant. The property owner is the only party who may obtain a permit under this Resolution [Ordinance].

§2-1-7.11 Permit Application Requirements. All applications for a permit pursuant to the provisions of this Resolution [Ordinance], in order to be complete, shall include the following:

(a) ___(number) copies of an erosion and sedimentation control plan with supporting data, as necessary, including as a minimum, the data specified in this Resolution [Ordinance] and conforming to the provisions of this Resolution [Ordinance].

(b) A fee in the amount of $ _____ (amount) shall be charged for each acre or fraction thereof in the project area.

(c) A statement by the (appropriate local government office) certifying that all ad valorem taxes levied against the property and due and owing have been paid.

(d) Bond. The 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 per acre or fraction thereof off the proposed land disturbing activity, prior to issuing the permit. If the applicant does not comply with this Resolution [Ordinance] or with the conditions of the permit after issuance, the 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.

Commentary: A more specific standard governing when the local government will require a bond should be established. For example, the Resolution [Ordinance] could specify a certain area threshold (acres) above which bonds may be required.

§2-1-7.12 Plan Requirements Generally. Erosion and sedimentation control plans must be prepared to meet the minimum requirements of this Resolution [Ordinance]. Conformance with the minimum requirements may be attained through the use of the design criteria in the current issue of the “Manual for Erosion and Sedimentation Control in Georgia,” published by

the State Soil and Water Conservation Commission as a guide; or through the use or more stringent, alternate design criteria which conform to sound conservation and engineering practices. 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 stormwater management facilities, local ordinances, and State laws. If the tract is to be developed in phases, then a separate permit shall be required for each phase.

§2-1-7.13 Data Required to be on Plans. Data required for erosion and sedimentation control plans submitted with permit applications would be as follows.

(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 a 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 offsite 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 Sedimentation Control in Georgia.”

(j) Maintenance statement – “Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection.”

§2-1-7.14 Features to be Included on Plans. 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. The certified plans shall contain the following features:

(a) Graphic scale and north point, or arrow indicating magnetic north.

(b) Vicinity maps showing location of project and existing streets.

(c) Boundary line survey.

(d) Delineation of disturbed areas within project boundary.

(e) Existing and planned contours, with an interval in accordance with the following:

Map Scale	Ground slope	Contour Interval (Feet)
1 inch = 100 ft. or larger scale	Flat 0-2% Rolling 2-8% Steep 8%+	0.5 or 1 1 or 2 2, 5, or 10

(f) Adjacent areas and features areas such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.

(g) Proposed structures or additions to existing structures and paved areas.

(h) Delineate the 25-foot horizontal buffer adjacent to state waters and the specified width in areas subject to the Metropolitan River Protection Act.

(i) Delineate the specified horizontal buffer along designated trout streams, where applicable.

(j) Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sedimentation Control in Georgia, Chapter 6.

(k) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.

§2-1-7.15 Review of Permit Application by District. Immediately upon receipt of a complete application for a permit, including a plan, the Issuing Authority shall refer the application and plan to the District for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The results of the district review shall be forwarded to the Issuing Authority. No permit shall be issued unless the plan has been approved by the District, and any variances, if authorized and granted pursuant to this Resolution [Ordinance], and bonding, if required by this Resolution [Ordinance], have been

obtained. Such review will not be required if the Issuing Authority and the District have entered into an agreement that allows the Issuing Authority to conduct such review and approval of the plan without referring the application and plan to the District.

§2-1-7.16 Decision on Permit. Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the Issuing Authority of a completed application, providing variances and bonding are obtained, where necessary. No permit shall be issued by the Issuing Authority unless the Issuing Authority has affirmatively determined that the erosion and sedimentation control plan is in compliance with this Resolution [Ordinance], and that the land use activity is in compliance with all rules and regulations in effect within the jurisdictional boundaries of the Issuing Authority.

§2-1-7.17 Permit Denial. If the permit is denied, the reason for denial shall be furnished to the applicant. If a permit applicant has had two or more violations of previous permits, this Resolution [Ordinance], or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing of the application under consideration, the Issuing Authority may deny the permit application without further consideration.

§2-1-7.18 Violations as Grounds for Permit Revocation. The permit may be suspended, revoked, or modified by the 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 Resolution [Ordinance]. 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.

§2-1-7.19 Violations and Orders to Comply. The [designated local government official] 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. If, through inspection, it is deemed that a person in 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 Resolution [Ordinance], 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. If the person engaged in the land disturbing activity fails to comply within the time specified, s/he shall be deemed in violation of this Resolution [Ordinance].

§2-1-7.20 Authority to Enter Property and Investigate. The [designated local government official] shall have the power to conduct such investigations as he or she may reasonably deem necessary to carry out duties as prescribed in this Resolution [Ordinance], and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the site of land disturbing activities. No person shall refuse entry or access to any authorized representative or agent of the Issuing Authority, the Commission, the District, or Division who requests entry for the purpose 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.

§2-1-7.21 Penalty for Failing to Obtain a Permit for Land Disturbing Activity. If any person commences any land disturbing activity requiring a land disturbing permit as specified in this Resolution [Ordinance] without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority.

§2-1-7.22 Warnings and Stop Work Orders. For the first and second violations of the provisions of this Resolution [Ordinance] by any violator, the Issuing Authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the Issuing Authority shall issue a stop work order requiring that land disturbing activities be stopped until necessary corrective action or mitigation has occurred. However, 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 Issuing Authority shall issue an immediate stop work order in lieu of a warning. For a third and each subsequent violation, the Issuing Authority shall issue an immediate stop work order. All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

§2-1-7.23 Bond Forfeiture. If, through inspection, it is determined that a person engaged in a land disturbing activity 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 Resolution [Ordinance] and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of this Resolution [Ordinance]. The 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.

§2-1-7.24 Monetary Penalties. Except as otherwise specifically provided in this section, any person who violates any provisions of this Resolution [Ordinance] or any permit condition, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the Issuing Authority issued as provided in this Resolution [Ordinance] shall be liable for a civil penalty not to exceed $2,500 per day. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

The following specific penalties shall apply to land disturbing activities performed in violation of any provision of this Resolution [Ordinance], or any permit condition. There shall be a minimum penalty of $250 per day for each violation involving construction of a single-family dwelling by or under contract with the owner for his or her own occupancy.
There shall be a minimum penalty of $1,000 per day for each violation involving land disturbing activities other than those involving construction of a single-family dwelling by or under contract with the owner for his or her own occupancy.

§2-1-7.25 Appeal and Hearing, and Judicial review. The suspension, revocation, modification or grant with condition of a permit by the 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 any Resolution [Ordinance], shall entitle the person submitting the plan or holding the permit to a hearing before the [board or body] within [number] days after receipt by the Issuing Authority of written notice of appeal. Any person aggrieved by a decision or order of the Issuing Authority, after exhausting his or her administrative remedies via this section, shall have the right to appeal de novo to the Superior Court of _____ County.

§2-1-7.26 Validity. If any section, paragraph, clause, phrase, or provision of this Resolution [Ordinance] shall be adjudged invalid or held unconstitutional, such decisions shall not effect the remaining portions of this Resolution [Ordinance].

§2-1-7.27 Liability. Neither the approval of a plan under the provisions of this Resolution [Ordinance], nor the compliance with provisions of this Resolution [Ordinance], shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law, nor impose any liability upon the 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 Resolution [Ordinance] or the terms of the permit. No provision of this Resolution [Ordinance] 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.

§2-1-7.28 Incorporation of Georgia Erosion and Sedimentation Act of 1975. It is the intent of the county [city] to apply and enforce the Georgia Erosion and Sedimentation Act of 1975 (O.C.G.A. Chapter 12-7) within the boundaries of its jurisdiction. To that end, the said Act is incorporated herein by reference and shall be enforced under the provisions of this section, except where any provision of this section is in conflict with the said Act, in which case the more restrictive provision will apply.

§2-1-8 GRADING

Commentary: All grading (land-disturbing activity) is governed by the Erosion and Sedimentation Act made applicable locally by adopting the previous module (2-1-7). This module may not be needed by most local governments since the best management practices required under Section 2-1-7 address virtually all major aspects of grading. However, this module provides greater specificity and additional regulations that may be appropriate in some jurisdictions. Local governments should weigh whether these additional provisions are needed, or whether a "minimalist" approach to the regulation of land-disturbing activities is desired. If a minimal approach is desired, the combination of modules 2-1-6 and 2-1-7 may be sufficient.

§2-1-8.1 Purposes. The purposes of this Resolution [Ordinance] are to limit grading to the minimum amount necessary; establish minimum requirements for grading work; guard against land instability; prevent the unnecessary removal of vegetation; protect the quality of wetlands and water courses from increased sedimentation; and, to preserve the aesthetic quality of the natural terrain.

§2-1-8.2 Definitions.

Cut: The removal of naturally occurring earth materials by mechanical means.
Development: Any activity which alters the elevation of the land, removes or destroys plant life, or causes structures of any kind to be erected or removed.
Elevation: The vertical height or heights above a datum plane which for purposes of this Resolution [Ordinance] shall be the Mean Sea Level datum of the United States Coast and Geodetic Survey of 1929 or other customarily accepted source.
Existing grade: The elevation of the ground surface at any given point prior to cutting or filling.
Fill: The deposit of soil, rock or other material by man.
Finished grade: The elevation of the ground surface at any given point after cutting or filling.
Grading: Any cutting, or filling or combination thereof and includes the land in its cut or filled condition.
Natural drainage: Channels formed by the existing surface topography of the earth prior to changes made by unnatural causes.
Slope: An inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

§2-1-8.3 Grading Permit Required. A grading permit shall be required for all grading activities for any site if the combined volume of excavation, fill, dredging, or other movement of earth materials is more than 50 cubic yards unless specifically exempted by this Resolution [Ordinance]. No grading as specified in this section shall take place until grading plans have been submitted to, approved by, and a grading permit issued by the land use officer. At the applicant's option, where there will be construction or placement of a building following grading activities, the grading approval and permit may be a component of any required land use permit or building permit.

Commentary: This module specifies a "grading" permit as separate and distinct from a "land-disturbance" permit required by Section 2-1-7 of this model code. Some local governments do have both a grading permit requirement and a land-disturbance permit requirement, so as to distinguish between the two required permitting requirements. However, if this module is adopted, consideration should be given to merging the grading and land-disturbance permit processes.

Commentary: Local governments may wish to set the threshold of 50 cubic yards of grading to trigger the requirement for a grading permit. Review of grading plans is primarily the purview of the civil engineer, as it involves predominantly engineering considerations. However, planners usually review grading plans for non-engineering considerations, such as the aesthetics of the landscape, consistency with Comprehensive Plan policies, and protection of environmentally sensitive areas. This ordinance provides the land use officer with final authority over the approval of grading activities, even though the applicant for a grading permit would work much closer with the local government engineer in the review process. This is done to keep all permits regarding land use activities under the authority of one person. However, depending on local staffing arrangements, the responsibility for final approval of grading plans might rest with the local government engineer rather than the land use officer. If so, approval by the engineer needs to, at minimum, be "signed off on" by the land use officer. However, most small rural local governments do not have an engineer on staff. It must be emphasized here that local governments need to have an engineer on staff or an arrangement with a consulting engineer to adequately administer and enforce grading and land-disturbance regulations.

§2-1-8.4 Exemptions. The following grading activities shall be exempt from the requirement to file grading plans and received a grading permit.

(a) Excavations and filling of cemetery graves.

(b) Excavations for exploratory investigations by soil scientists, engineering geologists, and the like.

(c) Grading or filling performed exclusively for agricultural activities in fields such as the planting of crops or the raising of livestock, but not including the construction of any building or structure.

(d) Operation of surface mines and other activities involving the extraction of mineral and earth materials subject to the regulations and under a permit of the Georgia Department of Natural Resources.

(e) Sanitary landfills or other landfills subject to the regulations and under a permit of the Georgia Department of Natural Resources.

(f) Stockpiling and handling of earth material when the earth material is consumed or produced in a process which is the principal use of the site.

(g) On-site work required for construction, repair, repaving, replacement or reconstruction of an existing road, street or utility installation in a public right-of-way.

(h) Trenching and backfilling for the installation, reconstruction or repair of utilities on property other than a public right-of-way.

(i) Underground storage tank removal and replacement that is subject to regulation by a state or federal agency.

§2-1-8.5 Specifications for Grading Plans. An application for a grading permit or approval shall be made to the Land Use Officer. 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 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 Land Use Officer 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 grading permit or approval should be issued. Grading plans shall be processed in accordance with procedures for building permits or, when not submitted simultaneously with a building permit application, shall be processed and a final decision made by the Land Use Officer within thirty (30) days of receiving a completed application.

§2-1-8.6 Site Grading Regulations.

(a) 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 County [City] Engineer.

(b) 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 County [City] Engineer. No blasting shall occur without a valid permit issued by the Fire Marshal.

(c) Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other forms of pollution in a watercourse.

(d) 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.

(e) Any grading shall be performed in such a manner that final contours appear to be consistent with the existing terrain, both on and adjacent to the site.

(f) Construction and development plans calling for excessive cutting and filling may be refused a grading permit by the Land Use Officer if it is determined that the proposed land use can be supported with less alteration of the natural terrain.

§2-1-8.7 Grading in Areas of Special Flood Hazard. In addition to requirements for grading approval or permit set forth in this Resolution [Ordinance], any grading in areas of special flood hazard is subject to the requirements of Section 2-1-6 of this code, “Flood Damage Prevention.”

§2-1-8.8 Erosion Control. Erosion and sedimentation control measures, as required by Section 2-1-7 of this code, shall be coordinated with the sequence of grading, development, and construction operations.

Commentary. If local governments choose not to adopt Sections 2-1-6 and 2-1-7, then the two paragraphs above would be deleted. However, since flood hazard regulations are required to be eligible for the flood insurance program, and because erosion control regulations are enforced by the state if not by local government, most local governments will need to adopt regulations for flood plains and soil erosion and sedimentation.

§2-1-8.9 Grading on Steep Slopes. In areas where the slope of a given parcel to be developed exceeds 35 percent, at least 85 percent of the ground surface of the parcel shall remain in an undistributed state (i.e., not cut or fill).

Commentary: Some communities will not have steep slopes as defined here, and thus could delete this provision. It is intended to apply to communities that have hillside or mountain topography and that wish to avoid clearcutting of steep slopes, which can damage the natural environment and destroy scenic views. The 15 percent allowance for cut and fill on steep slopes should normally be adequate to allow a single-family residence and perhaps other types of development to occur on steep slopes.

§2-1-8.10 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 Land Use Officer.

(g) Fill must be compacted to 95 percent unless the County [City] Engineer specifies another standard.

§2-1-8.11 Temporary Stockpiling during Construction or Grading. Temporary stockpiles of earth materials during construction or grading shall not exceed ten feet in height. Stockpiles shall have slopes no greater than one horizontal to one vertical. Stockpiles shall not be placed in locations that would cause suffocation of root systems of trees to be preserved.

§2-1-8.12 Compliance. Grading shall be done in accordance with the lines and grades shown on the approved grading plan.

Commentary on making this module a stand-alone ordinance: This module is written as if it will be adopted as part of a more comprehensive land use management code. To make this

module stand-alone will require several other provisions, such as a preamble, enforcement, appeals, and more detailed provisions on procedures.

References:

Gwinnett County, Georgia, Development Regulations.

For a straightforward, general discussion of earthwork considerations, see: Lynch, Kevin, and Gary Hack. 1984. Site Planning. Cambridge: MIT Press.

For formulas, calculations, and other technical, engineering-related aspects of grading and earthwork, see: Brewer, William E., and Charles P. Alter. 1988. The Complete Manual of Land Planning and Development. Englewood Cliffs, NJ: Prentice-Hall; and Colley, B.C. 1986. Practical Manual of Site Development. New York: McGraw-Hill.

§2-2 SUBDIVISIONS AND LAND DEVELOPMENT

CONTENTS

§2-2 SUBDIVISIONS AND LAND DEVELOPMENT

Commentary on Purpose of Subdivision Regulations: Without subdivision regulations, a community may have tracts of land sold without provision for water, sewage disposal, or even access. It may without such regulations have lots that cannot be developed. Without land subdivision regulations, land records are likely to be inadequate. There is probably no other regulation more important than subdivision regulations, because the resulting designs and patterns of land subdivision establish the geography and geometry of the community and in turn influence the entire character of the city or county. Once land has been cut up into streets, blocks, and lots, the pattern is very difficult to alter. The subdivision and development of land affects the welfare of the entire community in so many ways that it cannot be entrusted to haphazard subdivision design.

Commentary: This ordinance provides for the regulation of subdivision plats and land developments. Subdivisions are classified as minor (four lots or less) which can be approved administratively by the Director (land use officer) and major subdivisions (more than four lots) which require approval by the Planning Commission. Section 2-3 is an integral companion

module to this module, as it contains improvement requirements for all land subdivisions and land developments.

§2-2-1 TITLE

These regulations shall be known and may be referred to as the land subdivision regulations of _____ County [City of _____].

§2-2-2 PURPOSES

This Resolution [Ordinance] is adopted for the following purposes.

(a) Promote the orderly, planned, efficient, and economic development of the County [City] and to guide future growth in accordance with the Comprehensive Plan.

(b) Ensure that lands subdivided are of such character that they can be used for building purposes without danger to the health or safety of residents, and to secure safety from fire, flood, or other menace.

(c) Prevent the pollution of air, land, streams, and ponds, as well as encourage the wise use and management of natural resources throughout the County [City], and preserve the topography and beauty of the community and the value of land.

(d) Ensure the proper provision of improvements such as drainage, water, sewerage, and capital improvements such as schools, parks, playgrounds, recreational facilities, and transportation facilities.

(e) Provide for open spaces through the most efficient design and layout of the land.

(f) Establish procedures for the subdivision and re-subdivision of land in order to further the orderly development of land.

(g) Provide for the proper monumenting of subdivided land and proper legal descriptions.

(h) Help eliminate the costly maintenance problems that develop when streets and lots are established without proper consideration given to various public purposes.

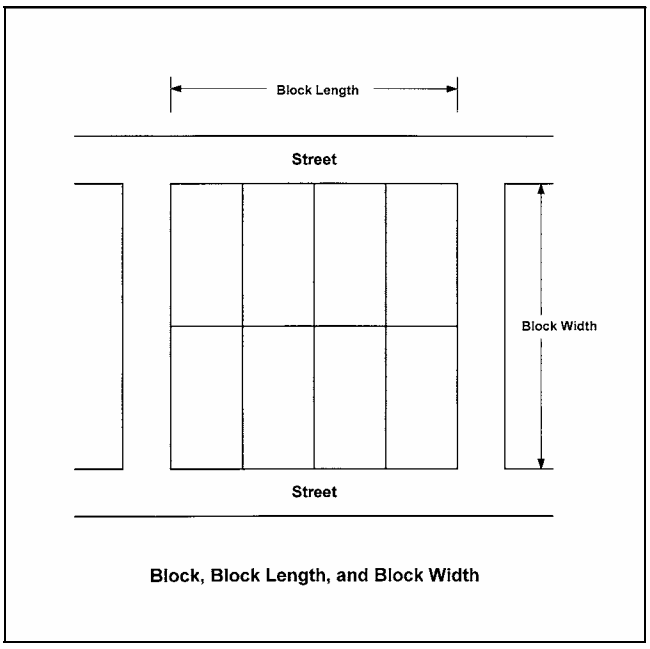
(i) Facilitate and inform lot purchasers who generally lack the specialized knowledge needed to evaluate subdivision improvements and design.

§2-2-3 DEFINITIONS

Alley: A strip of land dedicated to public use providing vehicular and pedestrian access to the rear of properties which abut and are served by a public road or street.

Block: An area of land within a subdivision that is entirely surrounded by public streets, public lands, railroad rights-of-way, watercourses, or other well defined and fixed boundaries. (See Figure 2-2-3.1).

Figure 2-2-3.1



Comprehensive plan: Any plan adopted by the _____ County Board of Commissioners [Mayor and City Council of the City of _____], or portion of such plan or plans. This definition shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document, or written recommendation pertaining to subjects normally within the subject matter of a Comprehensive Plan as provided by the Georgia Planning Act of 1989, if formally adopted by the local governing body.

Conservation areas, primary: Any property qualifying as conservation use property under O.C.G.A. Section 48-5-7.4; and any steep mountain slopes, floodplains, wetlands, waterbodies, upland buffers around wetlands and waterbodies, critical wildlife habitat, and sites of historic,

cultural, or archaeological significance, located outside of building envelopes and lots established for building purposes.

Conservation areas, secondary: Prime farmland, natural meadows, mature woodlands, farm fields, localized aquifer recharge areas, and lands containing scenic views and sites, located outside of building envelopes and lots established for building purposes.

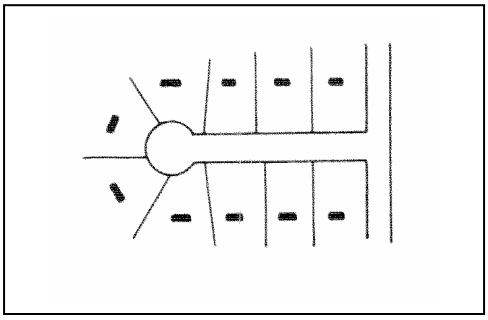
Conservation easement: A legally enforceable agreement between a property owner and the holder of the easement, in a form acceptable to the County [City] Attorney and recorded in the office of the Clerk of Superior Court of _____ County. A conservation easement restricts the existing and future use of the defined tract or lot to conservation use, agriculture, passive recreation, or other use approved by the _____ County Board of Commissioners [Mayor and City Council] and prohibits further subdivision or development. Such agreement also provides for the maintenance of open spaces and any improvements on the tract or lot. Such agreement cannot be altered except with the express written permission of the easement holder and any other co-signers. A conservation easement may also establish other provisions and contain standards that safeguard the tract's or lot's special resources from negative changes.

Conservation subdivision: A subdivision, as defined by this Resolution [Ordinance], where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary and all or some of the secondary conservation areas within the boundaries of the subdivision.

Contiguous common parcels: Parcels adjoining or touching other land at a common point and having a common owner, regardless of whether or not portions of the parcels have separate tax lot numbers, or were purchased in different land lots, or were purchased at different times.

Cul-de-sac: A dead-end street of limited length having a primary function of serving adjoining land, and constructed with a turnaround at its end (see Figure 2-2-3.2).

Figure 2-2-3.2
Cul-de-Sac



Cul-de-sac, temporary: A nonpermanent vehicular turn around located at the termination of a street or alley.

Deceleration lane: An added roadway lane, of a specified distance and which may include a taper, as approved by the County [City] Engineer, that permits vehicles to slow down and leave the main vehicle stream.

Dedication: The deliberate appropriation of land by an owner for any general and public use or purpose, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

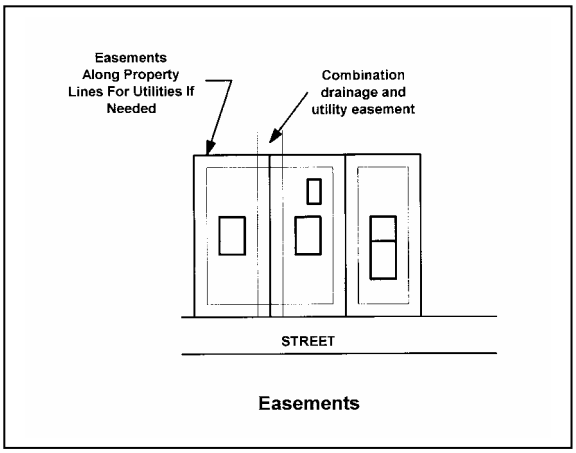
Dedication plat: A plat that indicates property to be dedicated for public right-of-way or land for public use.

Development: Any manmade change on improved or unimproved real estate, including but not limited to, buildings, structures, mining, dredging, filling, grading, paving, excavation, drilling, or permanent storage of materials or equipment.

Director: The Land Use Officer, or his designee.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity. (See Figure 2-2-3.3).

Figure 2-2-3.3



Escrow account: A type of subdivision improvement guarantee where the subdivider deposits either cash, a note, a bond, or some other instrument readily convertible to cash for specific face value specified by the County [City] Engineer to cover the costs of required improvements.

Final plat: The final drawing of a subdivision and, as applicable, dedication, prepared for filing for record with the Clerk of the _____County Superior Court, and containing all elements and requirements set forth in this Resolution [Ordinance].

Habitat for endangered or threatened species: An area verified by the Georgia Department of Natural Resources as; 1) actually containing naturally-occurring individuals of a species that has been listed as endangered or threatened under the Federal Endangered Species Act, as amended, and, 2) being likely to support the continued existence of that species by providing for a

significant portion of that species' biological requirements, and that meets the definition of "natural conditions" as defined by this Resolution [Ordinance].

Half street: A portion of the ultimate width of a road or street where the remaining portion of the road or street shall be provided at a future date.

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

Land suitability analysis: A method used by land planners, in preparing land use plans at a community- wide scale or land plans at a site development scale, to evaluate the fitness of land for various uses based at least partially on environmental criteria. The end product of land suitability analysis is typically a map or set of maps depicting the appropriateness of land areas for various land uses.

Letter of credit: A type of subdivision improvement guarantee whereby a subdivider secures an instrument from a bank or other institution or from a person with resources sufficient to cover the cost of improvements required by the County [City]. The instrument pledges the creditor to pay the cost of improvements in case of default by the subdivider.

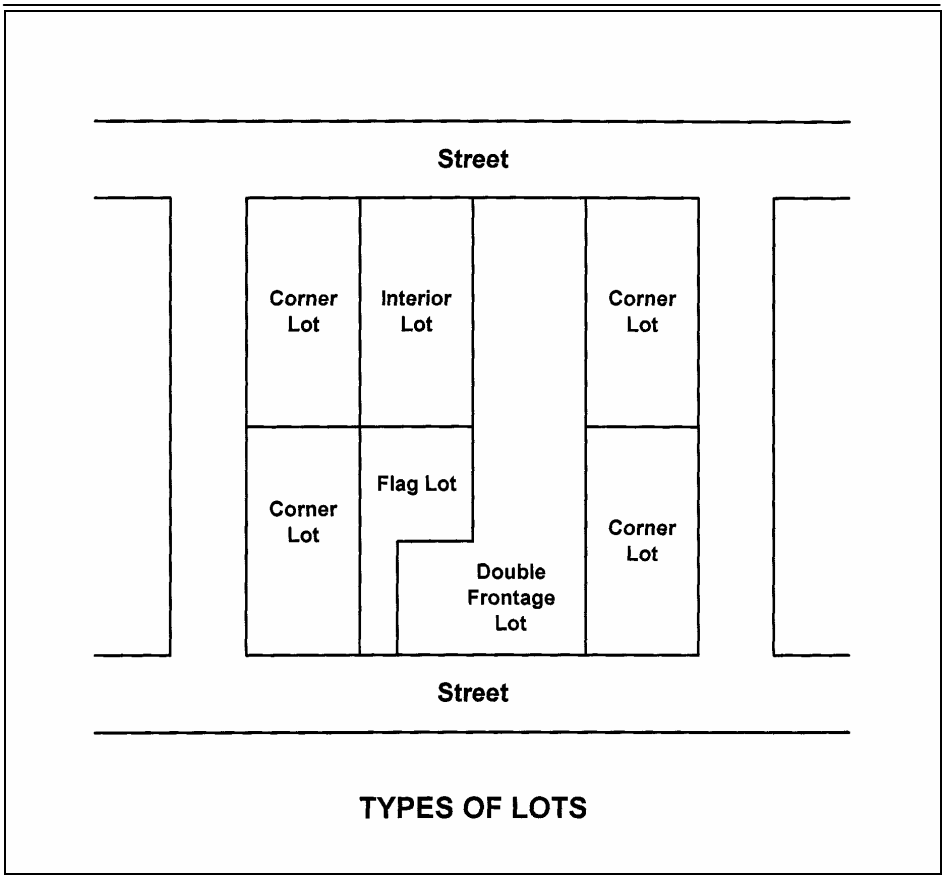
Lot: A portion or parcel of land separated from other portions or parcels by description (such as on a subdivision plat of record or a survey map or plat) or described by metes and bounds, and intended for use, transfer of ownership, or for building development. The word "lot" shall not include any portion of a dedicated right-of-way. Types of lots are illustrated in Figure 2-2-3.4.

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot, depth: The average horizontal distance between the front and rear lot lines.

Lot, double frontage: A lot other than a corner lot that has frontage upon two or more streets that do not intersect at a point abutting the property.

Figure 2-2-3.4



Lot, flag: A tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot.

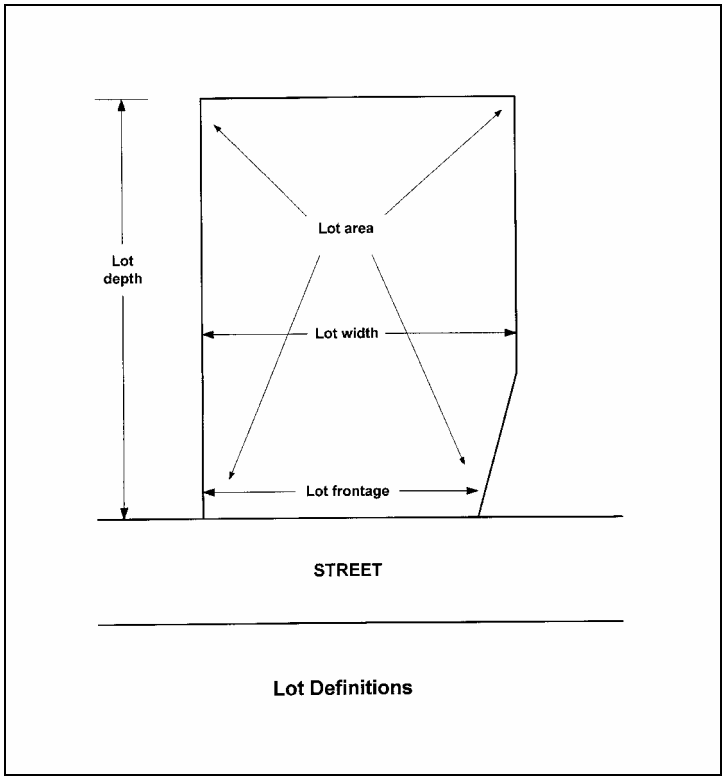
Lot, through: See "Lot, double frontage.

Lot frontage: The width in linear feet of a lot where it abuts the right-of-way of any street.

Lot of record: A lot which is part of a subdivision approved in accordance with land subdivision requirements, a plat of which has been lawfully recorded in the records of the Clerk of the _____ County Superior Court; or a parcel of land, the deed of which was lawfully recorded in the same office prior to _____.

Lot width: The shortest distance between side lot lines measured at the regulatory/required front building line, or in the absence of a front building line regulation, the distance between side lot lines measured at the front line of the building located or intended to be located on the lot.

Figure 2-2-3.5



Natural conditions: The flora, fauna, soil and water conditions that would develop on a specific tract of land if all human interference were to be removed. The tract of land must have been undisturbed for a sufficient period of time for natural processes to dominate the tract. This period of time will vary among environments.

Off-site: Beyond the boundaries of the property in question.

On-site: Within the boundaries of the property in question.

Open space: Any combination of primary conservation areas and secondary conservation areas, as defined, that together form a permanent, undivided or relatively undivided, undeveloped area. As much as 25 percent of the open space may be devoted to active recreational facilities, as defined. Easements for electric transmission lines or any other aboveground improvement shall not be considered open space. Stormwater management features, such as lakes, ponds, and ways, may be considered open space at the discretion of the Director, provided that such areas

are designed and maintained in a manner that contributes to open space and the aesthetics of the subdivision.

Open space, public: An area within a development or subdivision designed and intended for the use and enjoyment of all residents or for the use and enjoyment of the public in general.

Original tract: A unit of land which the owner holds under single or unified ownership, or which the owner holds controlling interest on the effective date of this Resolution [Ordinance], where all land abutting said tract is separately owned by others, not related to or associated by business partnership with the owner.

Package treatment plant: A sewage treatment facility, usually privately operated, typically having a treatment capacity of less than one million gallons per day. In most cases, a package treatment plant is considered a temporary means of wastewater treatment until connection to a public sanitary sewerage system is available.

Pedestrian way: A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may, in addition to providing pedestrian access, be used for the installation of utility lines.

Performance bond: A type of subdivision improvement guarantee in the form of a bond, secured by the subdivider from a bonding company, in an amount specified by the County [City] Engineer to cover the costs of required improvements, and payable to the County [City]. The County [City] may call in the performance bond in the event the subdivider defaults on required improvements.

Person: A natural human being, estate, association, firm, partnership, corporation, or other legal entity.

Preliminary plat: A tentative drawing or map of a proposed subdivision. A preliminary plat is the basis for the approval or disapproval of the general layout of a land subdivision.

Planned unit development: A form of development usually characterized by a unified site design for a number of housing units, clustered buildings, common open space, and a mix of building types and land uses in a slightly more dense setting than allowable on separate zoned lots.

Professional engineer: An engineer duly registered or otherwise authorized by the State of Georgia to practice in the field of civil engineering.

Professional surveyor: A surveyor duly registered or otherwise authorized by the State of Georgia to practice in the field of land surveying.

Protective covenants: Contracts made between private parties as to the manner in which land may be used, with the view toward protecting and preserving the physical and economic integrity of any given area.

Recreation, active: Leisure activities that are facility oriented, such as swimming pools, tennis courts, and ball fields.

Recreation, passive: Leisure activities that are natural resource oriented, such as hiking trails, conservation areas, and nature preserves.

Reservation: A method of holding land for future public use by showing proposed public areas on a subdivision plat.

Reserve strip: A strip of land across the end of, or along the edge of, a street, alley, or lot for the purpose of controlling access which is reserved or held until future street extension or widening.

Right-of-way:

(a) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water line, sanitary storm sewer, or other similar use.

(b) Generally, the right of one to pass over the property of another.

Scenic views and sites: Those geographic areas containing visually significant or unique natural features, as identified in the Comprehensive Plan, or by other reasonable means.

Sensitive natural areas: Any area, as identified now or hereafter by the Department of Natural Resources, which contains one or more of the following:

(a) Habitat, including nesting sites, occupied by rare or endangered species;

(b) Rare or exemplary natural communities;

(c) Significant landforms, hydroforms, or geological features; and/or

(d) Other areas so designated by the Department of Natural Resources that are sensitive or vulnerable to physical or biological alteration.

Septic tank: An approved watertight tank designed or used to receive sewage from a building sewer and to affect separation and organic decomposition of sewerage solids, and discharging sewage effluent to an absorption field or other management system.

Shade tree: A tree in a public place, street right-of-way, or special easement, planted to provide canopy that will obscure the sun and heat from the ground.

Sidewalk: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a public road.

Site plan: A neat and approximate drawing of a multi-family residential, institutional, office, commercial, or industrial development, showing the general layout of a proposed development including among other features the location of buildings, parking areas, and buffers and landscaping. The site plan is the basis for the approval or disapproval of the general layout of a

development in the case of a multiple-family residential, institutional, office, commercial, or industrial development.

Slope: Degree of deviation of a surface from the horizontal, usually expressed in percent or degree; the ratio of the difference in elevation between two points on the ground, and the horizontal distance between these two points. For purposes of determining steep slopes, slopes shall be measured between two points on the ground separated by 500 feet or more.

Steep slopes: Lands with slopes of at least 35 percent, as indicated in the Comprehensive Plan of the County [City], or which can be calculated with aid of a United States Geological Survey 1:24,000, 7.5 minute quadrangle topographic map or other available topographic information.

Street: Any vehicular way, other than an alley, that:

(a) is an existing federal, state, county or municipal roadway;

(b) is constructed as shown upon a plat approved pursuant to law and is open to vehicle travel;

(c) is constructed and open to vehicle travel as approved by other official action of the Board of Commissioners [Mayor and City Council]; or

(d) is constructed and open to vehicle travel and shown on a plat duly filed and recorded in the Clerk's Office, _____ County Superior Court prior to the effective date of this Resolution [Ordinance]. Land between the street lines, whether improved or unimproved, shall be considered part of the street.

Street, collector: Unless otherwise defined by the Major Transportation Plan or Comprehensive Plan, a collector street is a public street whose function is to collect traffic from neighborhoods and local streets and which connects to another public street of equal of greater classification. A collector also may provide direct access to adjacent properties.

Street, local: Unless otherwise defined in the Major Transportation Plan or Comprehensive Plan, any public street, except an alley, collector, or arterial, and which has a primary function to provide direct access to adjoining properties and which serves a limited area only, usually a single land subdivision.

Street, major arterial: Unless otherwise defined by the Major Transportation Plan or Comprehensive Plan, a major arterial street is a street connecting two or more towns or communities, connecting two highways of equal or greater capacity, or serving as the primary access to a large land area. A major arterial may also serve a large traffic generator (e.g., an industrial area) and perform a secondary function of providing local access.

Street, marginal access: A residential street parallel and adjacent to a major thoroughfare and which provides access to abutting properties with protection from through-traffic.

Street, private: A road or street that has not been accepted for maintenance by the County [City] and that is not owned and maintained by a state, county, city, or another public entity.
Subdivider: Any person, as defined by this Resolution [Ordinance], who undertakes the subdivision of land, and any person having such a proprietary interest in land to be subdivided as will authorize the maintenance of proceedings to subdivide such land under this Resolution [Ordinance], or the authorized agent of such person.
Subdivision: A division of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, including all division of land involving the dedication of a new street or a change in existing streets. The word “subdivision” includes re-subdivision and, when appropriate to the context, relates either to the process of subdividing or to the actual land or area which is subdivided.
Subdivision, minor: A subdivision of four or fewer lots, which does not involve the construction of a new public or private street. Because minor subdivisions do not involve the construction of a new public or private street, they are processed administratively by the Director as final plat applications that do not require preliminary plat approval. Any improvements to an existing public street abutting the tract proposed for minor subdivision, or the installation of utilities along said existing public road, as may be required to comply with this Resolution [Ordinance], shall be done according to plans and permit requirements of this Resolution [Ordinance], but said requirements shall not subject the minor subdivision to the requirements for a major subdivision as specified in this Resolution [Ordinance].
Subdivision, major: The division of a tract or parcel of land into four or more lots which may or may not involve the construction of a new public or private street; or any subdivision that involves the construction of a new public or private street. Because major subdivisions involve construction of a new public or private street or the upgrade of an existing private access way to County [City] standards, construction plans and land disturbance permits are required, and major subdivisions are therefore processed in multiple steps including preliminary plat approval (unless specifically exempted), approval of construction plans and issuance of land disturbance permits, and final plat approval.
Utility: Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel or gas pipelines, telephone lines, roads, cable telephone line, fiber optic cable, driveways, bridges, river/lake access facilities, storm water systems and drainage ways, and railroads or other utilities identified by the County [City]. As appropriate to the context, the term “utility” may also include all persons, companies, or governmental agencies supplying the same.

Variance: A grant of relief from the strict requirements of this Resolution [Ordinance] which permits construction in a manner that would otherwise be prohibited by this Code; a minimal relaxation or modification of the strict terms of this Resolution [Ordinance] as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in practical difficulty; or a grant of relief from the strict requirements of this Resolution [Ordinance] due to a proposed project not being able to meet policies and objectives specifically identified in the Comprehensive Plan.

§2-2-4 AUTHORITY AND DELEGATION

§2-2-4.1 Authority. These regulations are adopted pursuant to powers vested in counties [cities] by the State of Georgia Constitution, home rule powers, state administrative rules for the adoption and implementation of Comprehensive Plans, and the protection of vital areas of the State.

§2-2-4.2 Delegation of Powers to Planning Commission. The Planning Commission is vested with the authority to review, approve, conditionally approve, and disapprove preliminary plats of major subdivisions, and to grant variances from the requirements of this Resolution [Ordinance].

Commentary: Some cities and counties require the governing body (County Board of Commissioners or Mayor and City Council) to approve preliminary plats and final plats of subdivisions. That is a local choice. This model ordinance provides for the planning commission to approve final plats. Final platting is an administrative procedure approved by the Director (Land Use Officer).

§2-2-4.3 Delegation of Powers to Director. The Director is vested with the authority to review, approve, conditionally approve or disapprove final plats of minor subdivisions and minor re-subdivisions, lot combination plats, lot line adjustments, dedication plats, construction plans and final plats of major subdivisions when preliminary plat approval has been obtained from the Planning Commission. The Director shall also be authorized to review major subdivisions and major re-subdivisions for conformity to the requirements of this Resolution [Ordinance], and to make reports and recommendations to the Planning Commission on major subdivisions and

major re-subdivisions, and to administer, interpret, and enforce the provisions of this Resolution [Ordinance].

Commentary: This ordinance uses the word "director" rather than "land use officer" as found in other modules, because sometimes the authority to approve subdivisions is vested in a Director of Public Works, Director of Community Development, or some other administrative official.

§2-2-4.4 Delegation of Powers to County [City] Engineer. The County [City] Engineer is vested with the authority to require and approve land development improvements and to require improvement guarantees for public improvements as specified in this Resolution [Ordinance].

§2-2-5 APPLICABILITY AND GENERAL PROVISIONS

§2-2-5.1 Applicability. These regulations shall apply to all real property within unincorporated _____ County [corporate limits of the City of _____].

§2-2-5.2 Land is One Tract Until Subdivided. Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one tract, or as otherwise legally recorded.

§2-2-5.3 All Land Subdivisions to Comply. No person shall sell, advertise, or offer to sell, by deed, map, plat or other instrument, any parcel of land not subdivided under the requirements of this Resolution [Ordinance]. It shall be unlawful for any person to transfer or sell land by reference to, or by exhibition of, or by other use of, a plat of a land subdivision that has not been approved and recorded in accordance with the requirements of this Resolution [Ordinance]. The description of such land by metes and bounds in the instrument of transfer shall not exempt the transaction. No plat of land subdivision shall be entitled to be recorded in the Office of the Clerk of the Superior Court of _____ County, and it shall be unlawful to record such a plat of land subdivision, unless and until it shall have been approved in accordance with the requirements of this Resolution [Ordinance].

Commentary: It is not uncommon for persons unfamiliar with the subdivision process to divide land by virtue of a metes and bounds legal description, with or without survey, and without going

through the land subdivision process which requires public review and approval of a plat. This provision specifically makes such a practice unlawful.

§2-2-5.4 Preliminary Plat and Plans Required Prior to Construction. No person shall commence construction of any improvements on any lot, prior to the approval of a preliminary plat if required by this Resolution [Ordinance], nor prior to approval of construction plans and engineering plans for said improvements are approved as required by this Resolution [Ordinance] and Section 2-3 of this code.

Commentary: This ordinance applies to more than just land subdivisions. Any development involving the improvement of land comes under the terms of this ordinance, even if most of its provisions apply only to the subdivision platting procedure.

§2-2-5.5 Building and Other Permits. No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, on any parcel of land regulated by this Resolution [Ordinance] that has not been approved in accordance with the provisions of this Resolution [Ordinance].

§2-2-5.6 Public Streets and Lands. No land dedicated as a public street or for other public purpose shall be opened, extended, or accepted as a public street or for other public land unless such improvements are constructed in accordance with the specifications of this Resolution [Ordinance] and said land and/or improvements are formally approved and accepted as public improvements by the Board of Commissioners [Mayor and City Council] in accordance with procedures established in this Resolution [Ordinance].

§2-2-5.7 Appeals. Any person aggrieved by an interpretation or decision of the Director, County [City] Engineer, or other official responsible for the administration of this Resolution [Ordinance] may file an appeal to the Board of Appeals in accordance with Section 7.2 of this code.

Commentary: An appeal procedure is strongly advised. Local governments adopting this ordinance also need to adopt Section 7.2 of this model code. For local governments that do not

wish to establish a Board of Appeals, the ordinance could be modified so that any appeals go to the local governing body rather than the Board of Appeals.

§2-2-6 EXEMPTIONS FROM PLAT APPROVAL

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this Resolution [Ordinance]; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of Section 2-3 of this code.

(a) The creation and sale of cemetery plots.

(b) The sale of lots consistent with previously approved and recorded plats or deeds.

(c) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds for commercial, industrial, or institutional use.

(d) The creation of leaseholds for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agricultural use of the land or crops or livestock raised thereon.

(e) Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the County [City] to issue permits if the resulting lots or parcels fail to meet any applicable regulations of the local jurisdiction concerning lot size, lot width, and other dimensional requirements.

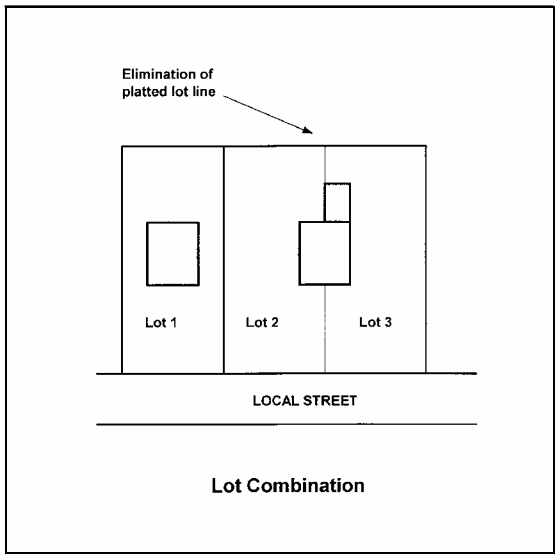
Commentary: The above exemptions do not have to file a subdivision plat for approval. However, such exemptions from plat approval do not relieve them from land development requirements established in this module and the next section (2-3).

§2-2-7 LOT COMBINATIONS

An existing lot line forming the boundary between two conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one building lot may be removed or eliminated through a final plat revision process which conforms to the requirements of this Resolution [Ordinance]. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be

required to be approved by the Director and recorded as a final plat. Such combination plat shall be titled with the same name as that of the original subdivision, if applicable, and shall indicate thereon that the replat is for the purpose of removing the lot lines between specific lots. (See Figure 2-2-7.1).

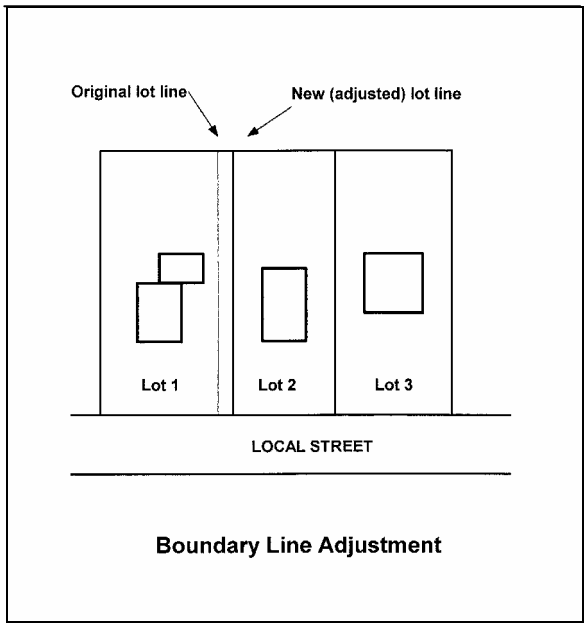
Figure 2-2-7.1



§2-2-8 BOUNDARY LINE ADJUSTMENTS

One or more existing lot lines forming boundaries between conforming platted lots located within the same subdivision, or one or more lot lines between abutting lots or parcels may be adjusted through a final plat revision process that requires the approval of the Director and recording of a plat meeting the specifications of a final plat. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat of the entire lots involved in the boundary line adjustment shall be required to be approved by the Director and recorded. Such plat showing said boundary line adjustment shall be titled with the same name as that of the original subdivision and shall include thereon that the replat is for the purpose of adjusting the lot lines between specific lots. (See Figure 2-2-7.2)

Figure 2-2-7.2

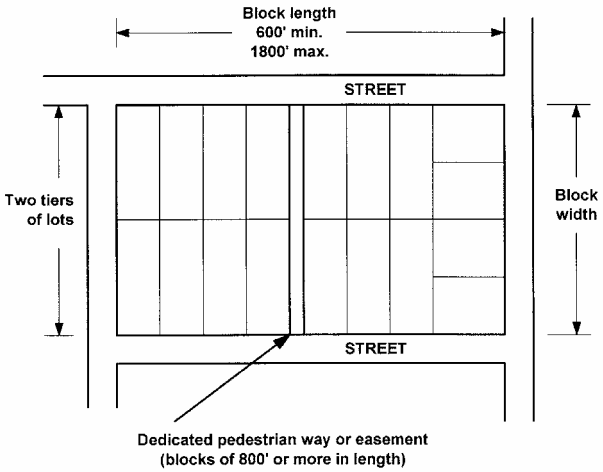


§2-2-9 DESIGN REQUIREMENTS FOR BLOCKS

§2-2-9.1 Block Length. Intersecting streets shall be provided at such intervals so as to provide adequate cross traffic. Blocks in residential subdivisions should not exceed 1,800 feet nor be less than 600 feet in length, except where topography or other conditions justify a departure from these standards. The Planning Commission may require pedestrian ways and/or easements through the block be located near the center in blocks longer than 800 feet.

§2-2-9.2 Block Width. The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries. (See Figure 2-2-9.2.1).

Figure 2-2-9.2.1



Block Length, Block Width, and Pedestrian Way

§2-2-10 DESIGN REQUIREMENTS FOR LOTS

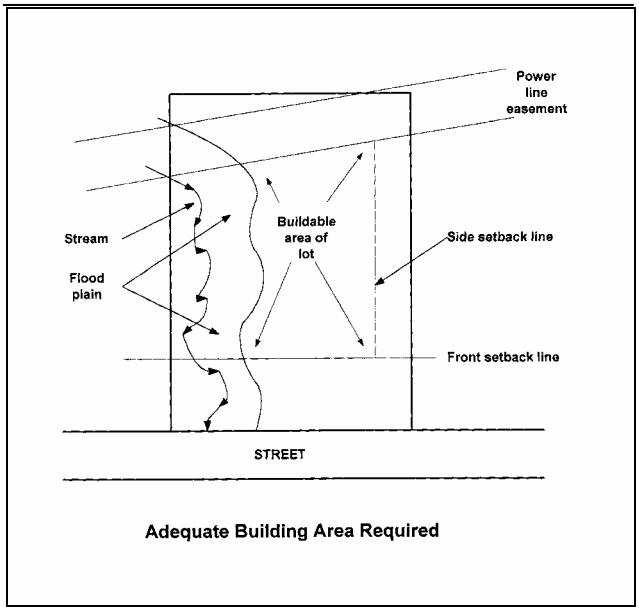
§2-2-10.1 Natural Features and Assets. In the subdividing of land, due regard shall be shown for all natural features, such as tree growth, watercourses, historic sites or similar conditions which, if preserved, will add attractiveness to the proposed development and safety from hazards.

Commentary: To adequately implement this provision, local governments might consider strengthening the minimum submittal requirements for preliminary plats as specified in this module (see Table 2-2-1). For instance, it might wish to require the submittal of aerial photographs, photographs of the site, or other information that will convey existing conditions and the need for preserving the attractiveness of natural features.

§2-2-10.2 Access and Minimum Lot Frontage. Each lot shall have access to a public street and a minimum of 50 feet of lot frontage on a public street; provided, however, that the local governing body may permit one or more lots to be accessed by private streets, as more fully specified in Section 2.3 of this code; provided further, that in the case of a lot accessed by a circular cul-de-sac, the minimum lot frontage may be reduced to 30 feet.

§2-2-10.3 Adequate Buildable Area Required. Land subject to flooding, improper drainage or erosion, or that is unsuitable for residential or other use for topographical or other reasons, shall not be platted for residential use nor for any other use that will continue or increase the danger to health, safety, or of property destruction, unless the hazards can be and are corrected. Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or building setback lines required by the local governing body. (See Figure 2-2-10.3.1).

Figure 2-2-10.3.1



§2-2-10.4 Lot Remnants Not Permitted. All remnants of lots below any required minimum lot size that may be required, left over after subdividing of a larger tract, must be added to adjacent lots, rather than allowed to remain as unusable parcels. The Director may permit a lot remnant for a specific purpose such as a detention pond, provided that access and design is appropriate and the lot remnant is restricted to specific non-building use.

§2-2-10.5 Service Areas. Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to the use intended.

§2-2-10.6 Lot Area. The minimum lot area shall not be less than that established by the land use intensity district in which the subdivision is located, if applicable.

§2-2-10.7 Lot Width. No portion of a lot shall be narrower than 60 feet, with the exception of cul-de-sac lots, nor shall any lot have a lot width less than that established by the land use intensity district in which the subdivision is located, if applicable.

§2-2-10.8 Lot Depth. Lots shall have a depth of not less than 100 feet, unless circumstances make these limitations impracticable.

§2-2-10.9 Flag lots. No lot shall be approved which constitutes a flag lot except with special approval from the Planning Commission due to extreme topographic circumstances.

§2-2-10.10 Side Lot Lines. Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

§2-2-10.11 Corner Lots. Corner lots shall have adequate width to meet the front building setback requirements, if applicable, from all rights-of-way.

§2-2-10.12 Double Frontage Lots. Double frontage or “through” lots should be avoided except where essential to provide separation of residential development from arterials or overcome specific disadvantages of topography or orientation. Double frontage lots with frontage on a major arterial street shall have additional depth in order to allow space for screen planting along the lot line abutting a major arterial street.

§2-2-11 EASEMENTS

Where a watercourse, drainage way, channel or stream traverses a subdivision, there shall be provided a stormwater or drainage easement of adequate width. Easements shall be provided for all drainage facilities as approved by the County [City] Engineer. Where easements are needed for utility locations, the subdivider shall provide them to the appropriate utility provider.

Where easements are needed for public water and/or sanitary sewer lines, they shall be provided as determined appropriate by the County [City] Engineer. All easements required pursuant to this section shall be shown on the preliminary plat, if required, and final plat.

§2-2-12 SURVEY MONUMENTS FOR ALL LOTS REQUIRED

For all subdivisions, a Georgia registered land surveyor shall install permanent survey monuments at all property corners and land lot lines, prior to final plat approval. Lot corners shall be marked with metal rods not less than 1/2" in diameter and 18" in length and driven so as to be stabilized in the ground. Permanent survey monuments shall also be installed in accordance with the most recent edition of Section 180-7-.05 Monument of the Rules of State Board of Registration for Professional Engineers & Land Surveyors and the Georgia Plat Act (O.C.G.A. 15-6-67).

§2-2-13 PRELIMINARY PLAT

§2-2-13.1 Purpose. The purpose of this section is to ensure compliance with the basic design concepts and improvement requirements of subdivisions and land developments through the submittal of a tentative map of all major subdivisions for review and approval by the Planning Commission.

§2-2-13.2 When Required. All major subdivisions, and any subdivision involving the dedication of a public street, shall require the submission of a preliminary plat to the Director for review and approval by the Planning Commission. Prior to the issuance of any permit for land disturbance, or the installation of any improvements, the Planning Commission must approve the preliminary plat, if required.

§2-2-13.3 Preliminary Plat Application and Specifications. Preliminary plat applications shall be made in accordance with requirements shown in Table 2-2-15.1.1, and preliminary plats shall meet the minimum plat specifications shown in Table 2-2-15.2.2.

Commentary: Subdivision regulations typically contain provisions for land dedications and reservations. An earlier version of this model code contained a section regarding public use reservations and dedications, but it was omitted on the recommendation of legal counsel. There

was concern about the possibility of such a provision resulting in a taking of private property without just compensation.

§2-2-13.4 Procedures. Upon receipt of a completed preliminary plat application, the Director shall schedule the application for the next public meeting before the Planning Commission and forward all pertinent materials in the application to the Planning Commission for review. An application for preliminary plat approval must be submitted as least 14 days before the regular meeting date of the Planning Commission to be considered on that agenda. The Planning Commission shall have 32 days from the date the public meeting is held to approve, conditionally approve, or deny the preliminary plat application. The basis of the Planning Commission's review of and action on a preliminary plat shall be whether the preliminary plat meets the purposes and requirements of this Resolution [Ordinance], and all other Resolutions [Ordinances] that relate to the proposed development.

§2-2-13.5 Disposition. Approval of a preliminary plat shall be valid for a period of one year, after which time a complete construction plans application must be submitted. If a completed application for construction plans is not submitted during that time, preliminary plat approval shall expire and be null and void.

§2-2-13.6 Appeal. Denial of preliminary plat approval may be appealed to the Board of Commissioners of _____County [Mayor and City Council of the City of _____].

§2-2-13.7 Amendments to Approved Preliminary Plats. The Director is authorized to approve minor amendments to preliminary plats. Any proposed amendment to a sketch plat that is determined by the Director to constitute a public interest shall be deemed a major amendment. For all amendments to preliminary plats determined to be major amendments, Planning Commission approval shall be required. The Planning Commission shall approve, conditionally approve, or deny the proposed major amendment to a preliminary plat. Procedures for considering a major amendment to a preliminary plat shall be the same as required for an initial application for preliminary plat approval.

§2-2-14 CONSTRUCTION PLANS

§2-2-14.1 Application. Upon approval of a preliminary plat, the subdivider or land developer may apply for construction plan approval. In the case of a minor subdivision, or in cases where a preliminary plat is not required by this article, the subdivider or land developer may apply for approval of construction plans; provided, however, that in the case of a minor subdivision or land development the applicant for construction plan approval should hold a pre-application conference with the Director to ensure that plans meet the intent and specific provisions of this Resolution [Ordinance] and other applicable regulations. The construction plan approval process is administrative. Applications for construction plan approval shall be made in accordance with requirements shown in Table 2-2-15.1.1 and Table 2-2-15.2.1. No application for construction plans shall be accepted for processing nor approved by the Director until a preliminary plat, if required, has been approved by the Planning Commission and the proposed construction plans are found by the Director to be in substantial conformity with said approval and any conditions of such approval.

§2-2-14.2 Director's Decision Criteria. The only basis upon which the Director may deny a construction plan is the failure of the application to meet the requirements of this Resolution [Ordinance] or any other applicable local regulations or the failure of the construction plans and application to meet the requirements of preliminary plat approval specified by the Planning Commission.

§2-2-14.3 Certificate of Approval. All copies of the construction plans shall be noted by inscription on the plat noting such approval by the Director and the County [City] Engineer. Construction plan approval shall expire and be null and void after a period of one year, unless activity toward improvements on the land has been initiated, or unless the Director approves an extension of time.

§2-2-15 FINAL PLAT

§2-2-15.1 When Required. All major subdivisions, minor subdivisions, and dedications shall require final plat approval. The final plat approval process is administrative. Applications shall be made in accordance with requirements shown in Table 2-2-15.1.1.

Table 2-2-15.1.1

Application Requirements

REQUIREMENT	MINOR SUBDIVISION	**MAJOR SUBDIVISION**		
		Preliminary Plat	Construction Plans	Final Plat
Pre-application review with staff	Recommended			
Application form completed		Required	Required	Required
Letter requesting approval with name, address, and phone of applicant		Required		
Number of copies of plat	4	8	8	10
Filing fee per Resolution/ schedule	Required	Required	Required	Required
Description of type of water supply and sewerage system and utilities to be provided	Required	Required	Required	Required
Soil test for each lot proposed for on-site septic tank and drainfield	Required	Required	Required	Required
Data on existing conditions		Required		
Hydrological or other engineering study	Per County [City] Engineer		Required	
Subdivision entrance monument and landscaping elevation/plan (prepared by landscape architect)			Required	
Warranty deed for the dedication of streets and other public places				Required
Written approval from electric utility company regarding installation of service points and street lights				Required
As-built drawings of public improvements				Required
Subdivision improvement guarantee				Required
Certificate of title	Required			Required
Plat Certificates	Required			Required

§2-2-15.2 Criteria for Approval. The Director may grant final plat approval if the following conditions, as applicable, are met. (See Figure 2-2-15.2.1).

(a) The Planning Commission has previously approved a preliminary plat of the proposed subdivision, if required (not required for minor subdivision).

(b) Where new improvements are involved in the subdivision, construction plans have been approved by the Director, and all improvements have been installed and inspected by the County [City] Engineer, and subdivision improvement guarantees as required by this Resolution [Ordinance] have been submitted.

(c) The final plat meets all applicable requirements of this Resolution [Ordinance].

(d) A complete final plat application has been submitted, including all supporting materials required by this chapter for final plats.

The Director shall consider final plats and applications that meet the above-referenced conditions a ministerial action of approval. Denial of a final plat shall be permitted only upon specific findings that one or more of the above-referenced conditions have not been met. (See Figure 2-2-15.2.1).

Table 2-2-15.2.1

Plat and Plan Requirements

REQUIRED INFORMATION (Required to be on the plat or construction plans)	**Preliminary Plat**	Construction Plans	**Final Plat**
Scale (minimum)	1"=100 feet	1"=100 feet	1"=100 feet
Sheet size (maximum)	24" x 36"	24" x 36"	18" x 22"
North arrow and graphic engineering scale	Required	Required	Required
Reference to north point (magnetic, true north, or grid north)			Required
Proposed name of subdivision or project and phases, if any	Required	Required	Required
Vicinity map	Required	Required	Required
Total acreage of the property being subdivided	Required	Required	Required
Name, address, and telephone of owner of record	Required	Required	Required
Name, address and telephone of subdivider	Required	Required	Required
Name, address and telephone of preparer of plat	Required	Required	Required

Table 2-2-15.2.1

Plat and Plan Requirements (Cont'd)

REQUIRED INFORMATION (Required to be on the plat or construction plans)	**Preliminary Plat**	Construction Plans	**Final Plat**
Date of plat drawing and revision date(s), if any	Required	Required	Required
Exact boundaries of the tract to be subdivided by bearings and distances, tied to one or more benchmarks	Required	Required	Required
Names of owners of record of all abutting land		Required	Required
Municipal, County and land lot lines inside the property or within 500 feet.	Required	Required	Required
Existing buildings and structures on or encroaching on the tract to be subdivided	Required	Required	Not Shown
Existing streets, utilities and easements on and adjacent to the tract	Required	Required	Required
Environmental conditions (streams, wetlands, watershed protection districts, flood hazard areas, river corridor boundaries, etc.)	Required	Required	Required
Block boundaries lettered and each lot numbered consecutively counterclockwise without repetition			Required
Dimensions and acreage of all lots	Approximate	Approximate	Exact
Locations of streets, alleys, lots, open spaces, and any public use reservations and/or common areas	Required	Required	Required
Right-of-way widths and pavement widths for existing and proposed streets		Required	Required
Locations, widths and purposes of easements		Required	Required
Street centerlines showing angles of deflection, angles of intersection, radii, and lengths of tangents and arcs, and degree of curvature and curve data		Required	Required
Acreage to be dedicated to the public			Required
Street names	Recommended	Required	Required
Street mailing address for each lot			Required
Topography	Per Director	Per Director	Not Shown

Table 2-2-15.2.1			
Plat And Plan Requirements (Cont'd)			
REQUIRED INFORMATION (Required to be on the plat or construction plans)	**Preliminary Plat**	Construction Plans	**Final Plat**
Minimum front building setback lines for all lots	Required	Required	Required
Location and description of all monuments			Required
Certificate of ownership and dedication			Required
Plat recording and signature block			Required
Signature block for Planning Commission approval			Required
Land surveyor's stamp, certificate, signature, including field survey and closure statement		Required	Required
Statement of and reference to private covenants		Recommended	Required
Schedule of construction for all proposed projects with particular attention to development planned for the first year	Required	Required	

§2-2-15.3 Approval Certificate. Upon approval of the final plat, a certificate, stamped directly on the plat, shall state:

> "Pursuant to the Land Subdivision Regulations of _____ County, [City of _____] Georgia, and all requirements of approval having been fulfilled, this final plat was given preliminary approval by the Planning Commission on _____, 20_____, and final approval by the Land Use Officer and County [City] Engineer and it is entitled to recordation in the Clerk's Office, _____ County Superior Court."

§2-2-15.4 Additional Plat Certificates. In addition to information required by Table 2-2-15.2.1 to be supplied on a final plat, each final plat shall contain the following certificates.

Surveyor's Certificate. A certificate by a surveyor directly on the final plat as follows:

> "It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or persons under my supervision; that all monuments shown hereon actually exist or are marked as "future," and that their location, size, type and material are correctly shown; and that all engineering requirements of the Unified Development Code of _____ County, [City of _____], Georgia, have been fully complied with.
>
> By:_____
> Registered Georgia Land Surveyor No.:_____"

Owner's Certificate. A certificate by the owner directly on the final plat, signed in an appropriate manner as follows:

"The owner of the land shown on this plat and whose name is subscribed hereto, in person or through a duly authorized agent, certifies that this plat was made from an actual survey, and that all State, City and County taxes or other assessments now due on this land have been paid. Said owner donates and dedicates to the public for use forever the street right-of-way as shown on this plat.

_____
Owner

Signed, sealed and delivered
in the presence of:

_____
Witness

_____
Notary Public"

Health Department Approval Certificate.

"This final plat has been approved by the _____ County Health Department as being consistent with applicable state and local environmental health requirements.

_____

Director, _____ County Health Department"

§2-2-16 DEDICATIONS OF STREETS AND PUBLIC LANDS

Subdivision streets and right-of-ways and other lands to be dedicated to the public shall be accepted and dedicated by the County [City] only upon the delivery to the Board of Commissioners [Mayor and City Council] of the general warranty deed conveying fee simple title of such right-of-ways and lands. The warranty deed shall be accompanied by an attorney's certificate of title and a tax transfer form addressed to the County Board of Commissioners [Mayor and City Council] certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so. Acceptance of such dedication shall be accomplished by Resolution of the Board of Commissioners [Mayor and City Council], a certified copy of which shall be attached to both the deed of dedication and the final plat.

§2-2-17 SUBDIVISION IMPROVEMENT GUARANTEES

In order to protect the County [City] and prospective purchasers of and residents in a subdivision, the subdivider/developer shall provide to the County financial security to guarantee the installation of public improvements. The subdivider's or developer's financial guarantee may be any of the following:

(a) An escrow of funds with the County [City];

(b) An escrow with a bank or savings and loan association upon which the County [City] can draw;

(c) An irrevocable letter of commitment or credit upon which the County [City] can draw;

(d) A performance bond for the benefit of the County [City] upon which the County [City] can collect, or a certificate of deposit with assignment letter; and

(e) Any other form of guarantee approved by the Board of Commissioners [Mayor and City Council] that will satisfy the objectives of this section. The guarantee shall be in an amount to secure the full costs, as determined by the County [City], of constructing or installing the improvements and utilities required.

§2-2-18 LIMITATIONS ON MINOR SUBDIVISIONS

§2-2-18.1 Purpose. Minor subdivisions provide certain advantages, such as a shorter application process and less public scrutiny, that tend to favor their use over the filing of major subdivision applications. Given these advantages, the prospect exists that subdividers may seek to divide a parcel via consecutive and/or contiguous minor subdivisions instead of filing for a major subdivision. It is the intent of the Board of Commissioners [Mayor and City Council] to prohibit the practice of "chain" subdivisions where the same land owner subdivides land and then files minor subdivision applications on common contiguous parcels, which collectively total more than four lots. It is also the intent of the Board of Commissioners [Mayor and City Council] to prohibit minor subdivisions adjacent to each other within a three-year time period, in cases where part of an original tract of land is now owned by another person or entity and was transferred or sold to another owner with the apparent intent to circumvent the major subdivision process.

§2-2-18.2 Common Contiguous Parcels Shown on Minor Subdivision Plats. Contiguous common parcels, as defined by this Resolution [Ordinance], shall be referenced on all applications for minor subdivisions, and contiguous common parcels shall be considered part of any application for minor subdivision, for purposes of determining whether or not the division of land proposed is a major subdivision or a minor subdivision. Common contiguous parcels shall not be counted as lots in the case of a minor subdivision.

§2-2-18.3 Limitations. Land within a minor subdivision, including all contiguous parcels owned by the subdivider, shall not be further divided for a period of three years unless a preliminary plat application is filed and approved as a major subdivision pursuant to the requirements of this Resolution [Ordinance]. If property proposed to be subdivided was part of an original tract, and if the property proposed to be subdivided abuts land that has been divided

as a minor subdivision in the last three years, then minor subdivision of said property shall be prohibited. This provision shall not be construed to prohibit the approval of two contiguous minor subdivisions under separate ownership; however, this provision is intended to be construed liberally so that one property owner does not develop a minor subdivision on part of an original tract and transfer or sell another part of the original tract for the purposes of minor subdivision within a three year period. It is the intent that land abutting a minor subdivision that was owned by the subdivider of the abutting minor subdivision shall not be subdivided as a minor subdivision for a period of three years, regardless of ownership.

§2-2-19 PRIVATE STREETS

Commentary: Many communities do not specifically address private streets in their land use management codes. This section addresses private streets in major subdivisions. Private streets, when they provide access to multiple lots, raise many questions about the adequacy of public access and the provision of future public utilities along said private streets. Because of potential problems with private streets, such as determining an equitable distribution of maintenance costs among property owners served by private roads, this section provides that the local governing body must approve private streets in major subdivisions. Private streets should at minimum meet the standards for public streets---otherwise, land developers have an incentive to provide private rather than public streets.

§2-2-19.1 Private Streets Permitted. Private streets may, upon application, be permitted by the Board of Commissioners [Mayor and City Council] within major subdivisions, subject to the requirements of this section. Applications for approval of private streets shall be considered by the Board of Commissioners [Mayor and City Council] at the time of preliminary plat approval by the Planning Commission. Following a recommendation by the Planning Commission to authorize private streets in a major subdivision, the Board of Commissioners [Mayor and City Council] shall consider the application and may impose conditions on the approval of private streets to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this section.

§2-2-19.2 Engineering Plans Required. It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the

same to be done without first obtaining approval of engineering and construction plans from the Director and the County [City] Engineer in accordance with the requirements of this Resolution [Ordinance] and Section 2.3 of this code.

§2-2-19.3 Standards. All private streets shall be constructed to all standards for public streets as required by Section 2.3 of this code, applicable construction specifications of the County [City] Engineer, and as approved by the County [City] Engineer.

§2-2-19.4 Street Names And Signs. Private streets shall be named, subject to the approval of the Director. The subdivider of land involving a private street shall install street signs with content containing the street name and the designation "private," as approved by the County [City] Engineer. The sign signifying the private street may be required by the County [City] Engineer to be a different color than that of street signs provided for public streets, in order to distinguish maintenance responsibilities in the field.

§2-2-19.5 Easements. Easements for private streets shall be designated on final plats as general-purpose public access and utility easements, along with the name of said private street. Said easement shall at minimum be of the same width as that required for the right-of-way of a public street by the major thoroughfare plan and the County [City] Engineer for the type of public street (local, collector, etc.) most closely resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density limitations established by local land use regulations. In the cases of private streets, the general-purpose public access and utility easement for the private street shall either;

(a) Be shown in a manner on the final plat such that each lot fronting the private street extends to the centerline of the private street. No lot shall be permitted to be divided by the general purpose public access and utility easement required and established for a private street; or

(b) Shall be drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot).

§2-2-19.6 Maintenance. The County [City] shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets. A private maintenance covenant recorded with the County Clerk of the Superior Court shall be required

for any private street and other improvements within general-purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The Covenant shall specifically include the following terms.

(a) The Covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The Covenant shall also specify that the funds from such assessments will be held by a homeowners or property owners association in cases of a subdivision of seven or more lots fronting on a private street.

(b) The Covenant shall include a periodic maintenance schedule.

(c) The Covenant for maintenance shall be enforceable by any property owner served by the private street.

(d) The Covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.

(e) The Covenant shall run with the land.

(f) The Board of Commissioners [Mayor and City Council] may, at its discretion, as a condition of approving private streets, require a performance bond and/or maintenance bond be submitted by the subdivider and held by a homeowners or property owners association, or the Board [Council] may require that the subdivider pay an amount of money as recommended by the County [City] Engineer into an escrow account or other suitable account for the maintenance and repair of private streets and stormwater management improvements, to be drawn from by the homeowners or property owners association as maintenance and repair needs may arise.

§2-2-19.7 Specifications For Final Plats Involving Private Streets. The Director shall not approve for recording any final plat involving a private street unless and until it shall contain the following on the face of the plat:

(a) Deed book and page reference to the recorded covenant required by this section;

(b) "WARNING, _____County [City of _____] has no responsibility to build, improve, maintain, or otherwise service the private streets, drainage improvements, and other appurtenances contained within the general public purpose access and utility easement or easements for private streets shown on this plat.";

(c) "Grant of Easement. The general purpose public access and utility easement(s) shown on this plat for private street(s) is hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the County [City], and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

_____

Signature of Property Owner"; and,

(d) (The following certificate of dedication shall be required, unless the Board of Commissioners [Mayor and City Council] waives the dedication requirement.)

"Certificate of Dedication. All water and sewer lines installed within the general purpose public access and utility easement(s) shown on this plat for private street(s) are hereby dedicated to _____County [City of _____].

_____

Signature of Property Owner."

§2-2-19.8 Requirement for Purchaser's Acknowledgement of Private Responsibilities. Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the county [city], the subdivider or seller of said lot shall execute a

notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot:

"Purchaser's Acknowledgement of
Private Street and Drainage Maintenance Responsibility

(I) / (We) have read the Declaration of Covenant which pertains to the lot that is the subject of this real estate transaction _____ (insert address or attach legal description). (I) / (We) understand that the Declaration of Covenant applies to the lot that (I am) / (we are) purchasing and requires (me) / (us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am) / (we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me) / (us) to pay, plus their damages resulting from (my) / (our) refusal to contribute, plus reasonable attorneys fees. (I) / (We) further understand that the County [City] has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. (I) / (We) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) / (we are) purchasing.

_____
Purchaser

_____
Purchaser."

§2-3 IMPROVEMENTS REQUIRED FOR SUBDIVISIONS AND LAND DEVELOPMENT

CONTENTS

§2-3 IMPROVEMENTS REQUIRED FOR SUBDIVISIONS AND LAND DEVELOPMENT (cont'd)

§2-3 IMPROVEMENTS REQUIRED FOR SUBDIVISIONS AND LAND DEVELOPMENT

Commentary: The review and approval of subdivision and land development improvements is primarily the purview of the local government engineer. The land use officer also has a significant role in the review of plans and plats and the application of various standards. The construction specifications of public improvements go far beyond the specifics identified in this module. For this reason, local governments should authorize (as this module does) the local government engineer to adopt standard drawings and specifications which can be published in a technical document. The improvement requirements specified here should be sufficient to identify the more important construction specifications, although local governments are strongly encouraged to have the local engineering department adopt more specific and more comprehensive standards for public and private improvements. If the rural local government does not have a civil engineer on staff, it is strongly advised that engineering standards be prepared and implemented by a professional engineer under a consulting arrangement.

§2-3-1 PURPOSE

The purpose of this Resolution [Ordinance] is to establish minimum design requirements, standards, and specifications for improvements within subdivisions and land developments.

§2-3-2 DEFINITIONS

Definitions pertaining to this Resolution [Ordinance] shall be as provided in Section 2-2 of this code.

§2-3-3 AUTHORITY OF COUNTY [CITY] ENGINEER

The County [City] Engineer is hereby authorized to review and approve plans for subdivisions and land developments to ensure compliance with the requirements of this code. The County [City] Engineer is further authorized to prepare and promulgate standards, standard drawings, and specifications to more specifically implement the intent of the improvement requirements of this code.

§2-3-4 APPLICABILITY AND EXEMPTION

The improvement requirements specified in this code section (2-3) shall apply to all non-single-family residential developments. The improvement requirements specified in this code section shall not apply to individual lots proposed for development as a detached, single-family dwelling or manufactured home, although such lots may be a part of a land subdivision that has initially met the requirements of this code section. All improvements required to be constructed as part of a major subdivision, minor subdivision or land development process shall be constructed and improved, in accordance with the standards and specifications for construction as required by this code section and as specified by the County [City] Engineer.

No person to which this code section applies shall commence construction of any improvements on any land, prior to the approval of construction plans and engineering plans for said improvements, as required by Section 2-2 of this code, according to the improvement standards specified in this code section and as adopted by the County [City] Engineer. No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, on any parcel of land that does not meet the improvement requirements specified in this section and as adopted by the County [City] Engineer pursuant to this section.

§2-3-5 ENGINEERED DRAWINGS

Engineering drawings for public streets, including cross sections and centerline profiles, and public and private water, sewer, drainage, and utility systems, certified by a professional engineer registered in the State of Georgia, or if authorized under state law, a registered land surveyor, or professional landscape architect, shall be required to be submitted for review and approval, and such plans must meet the requirements of this code section (2-3) and the specifications of the County [City] Engineer. Prior to approval and recording of a final plat, or prior to the approval of any certificate of occupancy, a registered engineer for the subdivider/developer shall submit one copy of all finished, as-built plans of improvements, demonstrating that said improvements, as installed, meet the requirements of this code section and certifying that the plans accurately reflect actual construction and installation. The County [City] Engineer shall maintain all as-built street and utility plans for future use by the County [City].

§2-3-6 PERMITS FOR CONSTRUCTION IN PUBLIC RIGHT-OF-WAY

Permits from the County [City] Engineer shall be required for construction in any public right-of-way. Permits will not be issued until such time that plans have been submitted and approved by the County [City] Engineer. Permit fees shall be approved by resolution of the Board of County Commissioners [Mayor and City Council].

§2-3-7 IMPROVEMENTS TO ABUTTING LAND

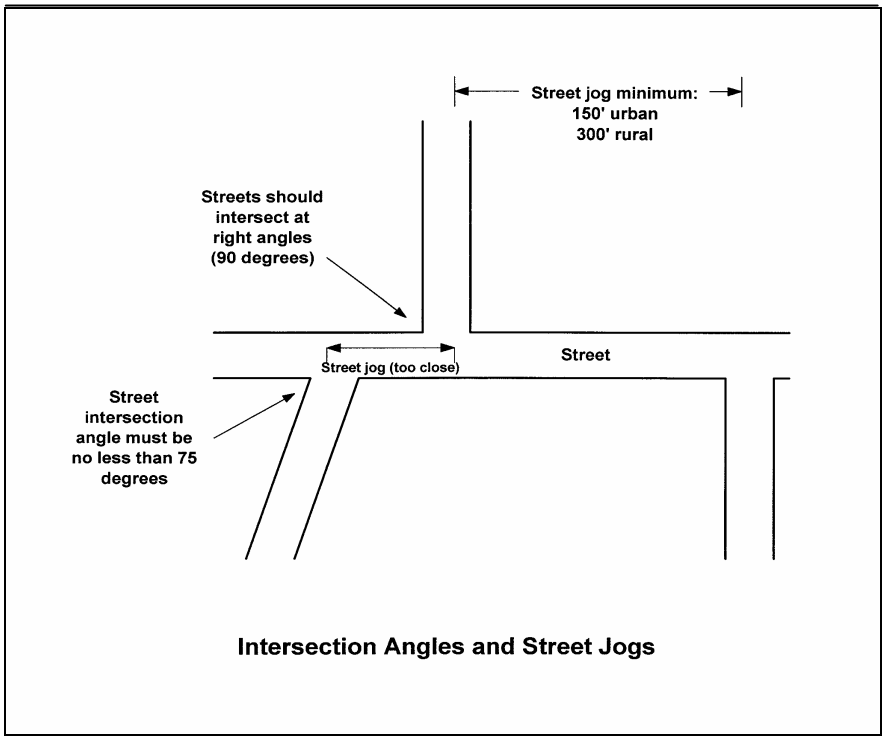
For subdivisions and land developments that abut and access an abutting public street, the subdivider or land developer shall install curb and gutter, sidewalk, other road improvements, and, if required, a deceleration lane, according to standards and specifications of the County [City] Engineer, along all abutting public streets. When a subdivision or land development uses an unpaved public right-of-way for access, the sudivider or land developer shall improve that right-of-way to a pavement width consistent with County [City] road design standards. Said improvements shall be from the subdivision or land development entrance to the paved County [City] road which the County [City] Engineer determines will be the primary direction of travel for residents of the subdivision or occupants of the land development.

Commentary: The local government should seek the advice of the county or city attorney in enacting this provision. It can be viewed as bordering on the taking of private property without just compensation. One view holds that the property abutting the subdivision or land development site is the equivalent of "on-site" and therefore improvement requirements, including right-of-way dedications, are valid. On the other hand, if the road immediately off-site is proposed to be improved as a "system improvement," then requiring that the subdivider or land developer improve the abutting road could run afoul of the Development Impact Fee Act of 1990 unless impact fee credits are provided to the subdivider or land developer.

§2-3-8 STANDARDS FOR CONFIGURING NEW STREETS

§2-3-8.1 Street Alignment, Intersections and Jogs. Streets shall be aligned to join with planned or existing streets. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles (90 degrees), but in no case shall such a street intersection be less than 75 degrees. Where street offsets or jogs cannot be avoided, offset "T" intersections shall be separated by a minimum centerline offset of 150 feet in urban areas and 300 feet in rural areas. (See Figure 2-3-8.1.1).

Figure 2-3-8.1.1



Intersection Angles and Street Jogs

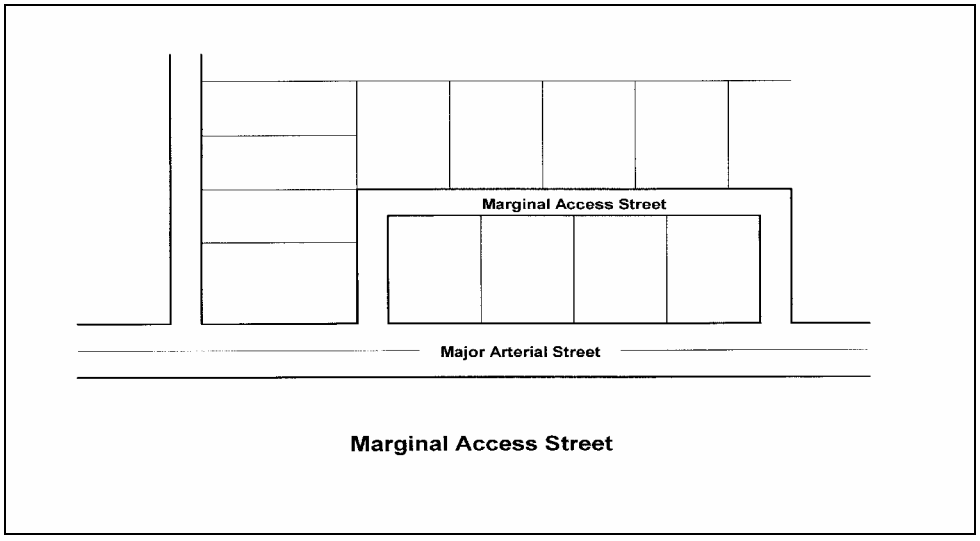
§2-3-8.2 Continuation of Existing Streets and Connections. Existing streets, and their rights-of-way, shall be continued at the same or greater width, but in no case less than the required width. The Planning Commission may require that a major subdivision provide one or more future connections to adjoining subdivisions or unsubdivided tracts.

§2-3-8.3 Street Plans for Future Phases of the Tract. Where the plat or site plan proposed to be subdivided or developed includes only part of the tract owned or intended for subdivision or development by the subdivider or land developer, a tentative plan of a future street system for the portion not slated for immediate subdivision consideration may be required by the Director and if required shall be prepared and submitted by the subdivider or land developer.

§2-3-8.4 Dead-End Streets and Cul-De-Sacs. Streets that dead-end shall terminate in a cul-de-sac. The maximum length of such streets shall be 600 feet in urban areas and 1,200 feet in rural areas. Streets that are planned to continue at some future date shall provide a temporary cul-de-sac as required by the County [City] Engineer.

§2-3-8.5 Marginal Access Streets. Whenever a major subdivision is proposed abutting the right-of-way of a U.S. or State highway, a marginal access street approximately parallel and adjacent to such right-of-way may be required by the Planning Commission at a distance suitable for the appropriate use of land between such marginal access street and highway right-of-way. The Planning Commission may also require a 20-foot no-access easement and planting strip along the major arterial street to ensure that lots fronting on said street do not have access thereto. (See Figure 2-3-8.5.1).

Figure 2-3-8.5.1



§2-3-8.6 Alleys and Service Access. Alleys may be provided. If they are provided, they must be paved. Dead-end alleys shall be avoided were possible; but if unavoidable, they shall be provided with adequate turn-around facilities. Service access shall be provided to commercial and industrial developments for off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

§2-3-9 REQUIREMENTS FOR STREETS

§2-3-9.1 Bridges. Bridges on public rights-of-way shall meet current American Association of State Highway and Transportation Officials standards, as determined by the County [City] Engineer.

§2-3-9.2 Grading and Stabilization of Street Rights-Of-Ways. When a new public street is proposed, all trees, brush, stumps, rocks, or other debris shall be cleared from the street right-of-way, except in cases where trees are required to be preserved by the Director in a manner acceptable to the County [City] Engineer. All streets shall be graded to lines, grades and cross sections approved on plans. All unsurfaced disturbed portions of street rights-of-way shall be stabilized by seeding, fertilizing, and mulching or by another equally effective method.

§2-3-9.3 Radius at Street Intersections. The right-of-way radius at street intersections shall be a minimum of 15 feet, with larger radii for streets serving nonresidential development, as approved by the County [City] Engineer. The minimum pavement (curb) radius at street intersections shall be 25 feet.

§2-3-9.4 Street Grades. No street grade shall be less than one percent. No street grade for an arterial or collector street shall exceed eight percent. No other local street grade shall exceed 12 percent, unless the County [City] Engineer finds that due to topographic conditions, a steeper grade is necessary, in which case the street grade shall not exceed 15 percent. Grades between 12 percent and 15 percent shall not exceed a length of 150 feet.

§2-3-9.5 Minimum Street Right-Of-Way and Pavement Widths. Street right-of-way and pavement widths shall at minimum meet the following:

STREET TYPE	MINIMUM RIGHT-OF-WAY WIDTH (FEET)	MINIMUM PAVEMENT WIDTH (FEET)
Major arterial street	Per thoroughfare plan	Per thoroughfare plan
Collector street	60	36
Local street with curb and gutter	50	24 (back of curb to back of curb)
Local street without curb and gutter	60	24
Cul-de-sac turn around radius	50	40 (back of curb)
Alley	20	16

Commentary: The standard for a local street with curb and gutter is considered the minimum necessary. Some communities require larger pavement widths and right-of-way widths for local streets. When curb and gutter is not required, the right-of-way width needs to be larger (60' rather than 50') to accommodate drainage ditches at the appropriate slopes. (See Figure 2-3-9.5.1 and Figure 2-3-9.5.2).

Figure 2-3-9.5.1

Residential Street with Curb and Gutter
(Cross Section Detail)

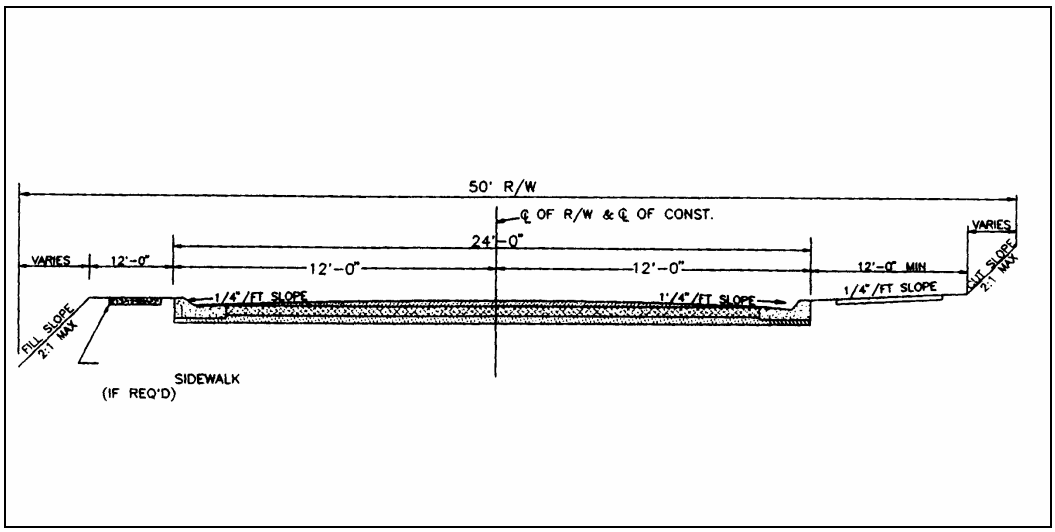
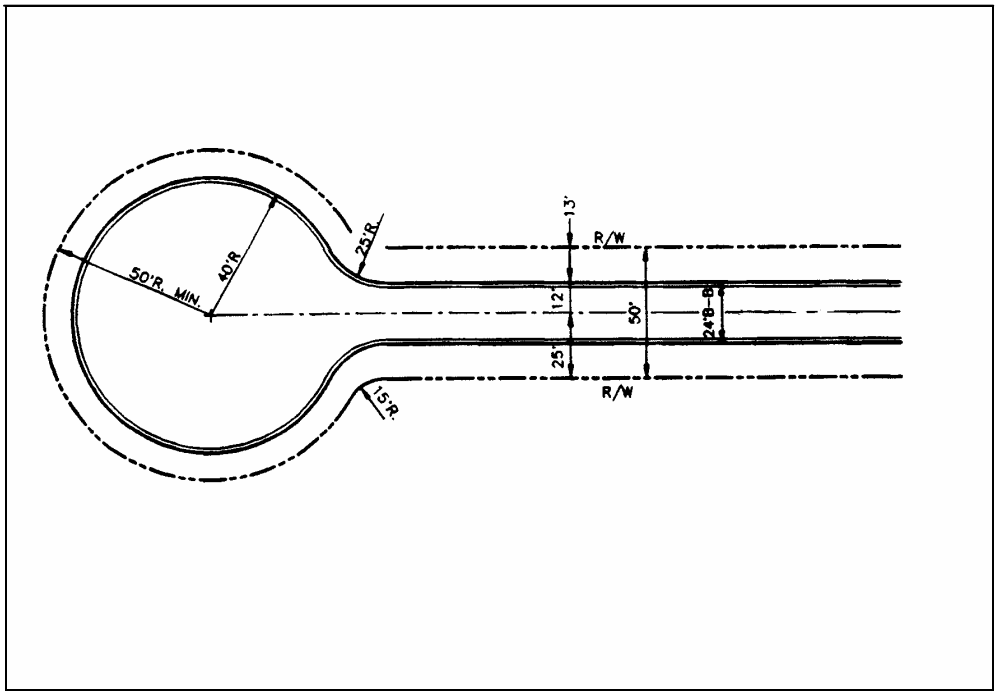


Figure 2-3-9.5.2

Cul-de Sac Detail



§2-3-9.6 Street Horizontal Alignment and Reverse Curves. Street horizontal alignments and reverse curves shall at minimum meet the following:

STREET TYPE	MINIMUM HORIZONTAL RADII OF CENTER LINE CURVATURE (FEET)	MINIMUM TANGENTS BETWEEN REVERSE CURVES (FEET)
Major arterial street	1,250	250
Collector street	500	100
Local street with curb and gutter	100	50
Local street without curb and gutter	100	50
Dead-end street	100	50

§2-3-10 CURB CUTS AND ACCESS SPECIFICATIONS

§2-3-10.1 Entrance Improvement Specifications. Roadway entrances and improvements, including necessary acceleration and/or deceleration lane(s) and right/left turn lanes, shall be designed, installed, and maintained as approved by the State Department of Transportation, as applicable, or the County [City] Engineer, in accordance with State or County [City] specifications. All entrances or exits of any street or driveway, public or private, from or to any state highway shall be approved by the State Department of Transportation and the County [City] Engineer prior to the construction of such entrances or exits and prior to the issuance of any land use permit or building permit for any improvement to be served by such entrances or exits. All entrances or exits of any street or driveway, public or private, from or to any County [City] street shall be approved by the County [City] Engineer prior to the construction of such entrances or exits and prior to the issuance of any land use permit or building permit for any improvement to be served by such entrances or exits.

§2-3-10.2 Curb Cut Specifications. No curb cut or access driveway shall be permitted to be located closer than 100 feet to the nearest existing or proposed right-of-way of an intersecting roadway or closer than 40 feet to a side property line unless the adjacent property owner is in agreement with the encroachment of the driveway and approval is obtained from the County [City] Engineer. Curb cuts or access driveways shall be no narrower than 24 feet from back of curb to back of curb. Strict adherence to these requirements may not be practical in all instances as determined by the County [City] Engineer. The County [City] Engineer may limit

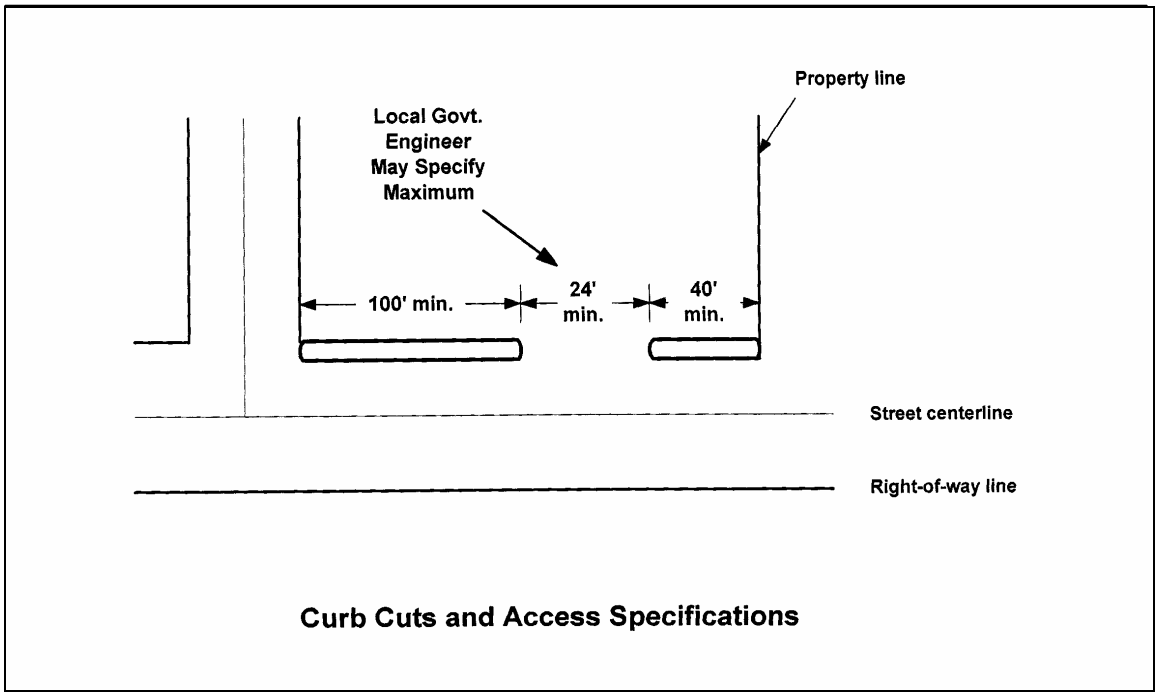
the maximum width of a curb cut and/or the number of curb cuts to a parcel as necessary when it is deemed to be of benefit to the safety and welfare of the public.

The following factors may be considered during the review and approval of a specific location of an entrance: the location of existing or planned median breaks; separation requirements between the entrance and major intersections; separation requirements between other entrances; the need to provide shared access with other sites; the need to align with previously approved or constructed access points on the opposite side of the street; and the minimum number of entrances needed to move traffic onto and off the site safely and efficiently.

§2-3-10.3 Access Along and Near Divided Highways. Where a divided highway exists or is planned, the following access standards shall be met (see Figure 2-3-10.3.1):

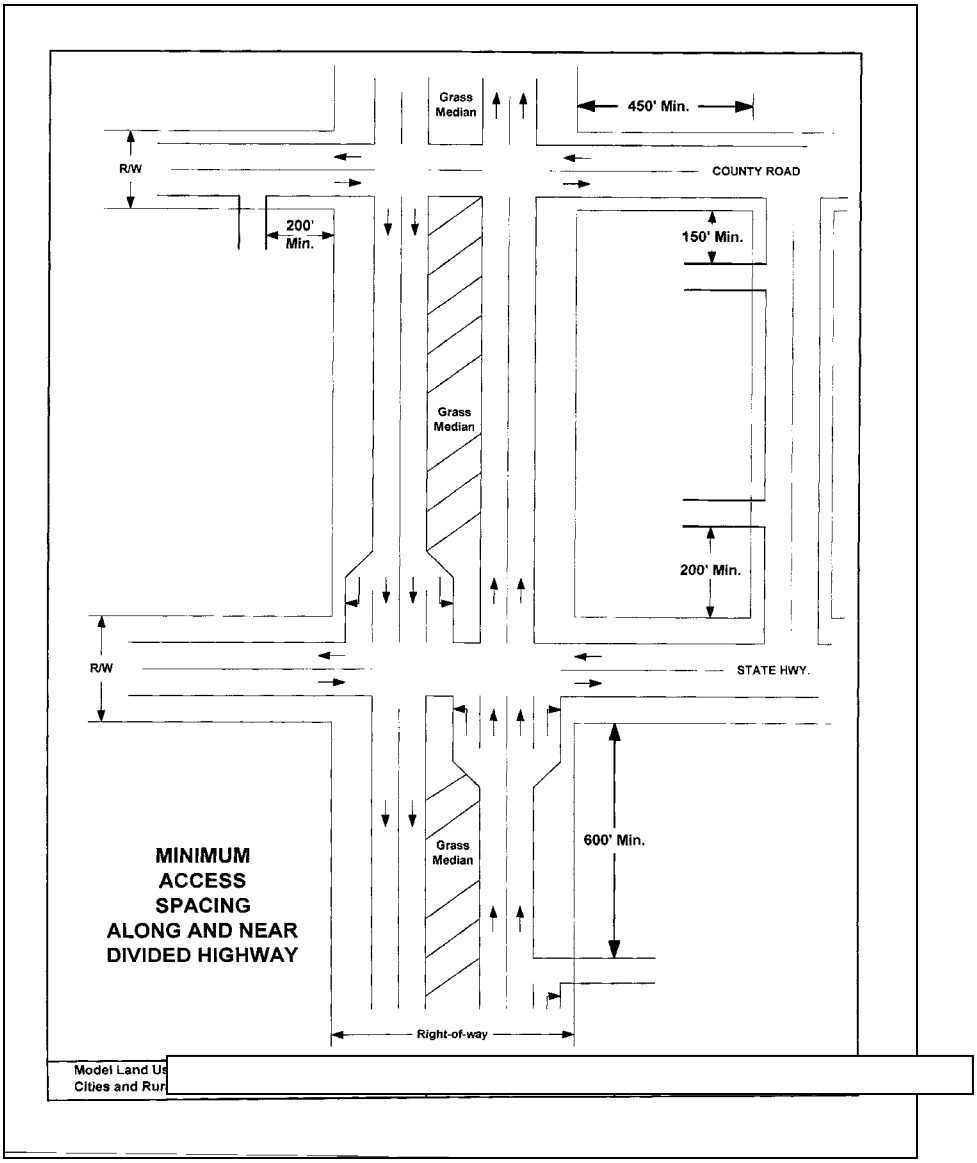
Minimum Access Separation Requirements	Distance (Feet)
Curb cut of driveway from street intersection with divided highway	600
Parallel frontage road from right-of-way of divided highway	450
Curb cut or driveway on a local road from right-of-way of divided highway	200
Curb cut or driveway on a local road from state highway	200
Curb cut or driveway on parallel frontage road from local road	150

Figure 2-3-10.3.1



§2-3-10.4 Interparcel Connections. New development that contains or is intended to contain more than one building or use on site shall provide connections so that automobile trips between and among such buildings or uses can be accomplished without using the highway or major street. Where possible and practical, new developments and substantial improvements to existing developments shall provide for pedestrian and automobile access connections between adjacent properties under different ownership when the uses of the properties are of such compatibility that patrons may frequent both buildings or uses in the same vehicle trip. (See Figure 2-3-10.4.1).

Figure 2-3-10.4.1



§2-3-11 STREET LIGHTING

The County [City] Engineer may require that subdivisions and land developments in urban and suburban areas provide street lighting along all public streets and along existing streets abutting the subdivision or land development. Such street lighting if required shall meet specifications of the County [City] Engineer.

Commentary: Local governments are encouraged to consider a more specific standard under which street lighting would be required. This provision may be too subjective.

§2-3-12 STREET SIGNS

Signs for street names, directions of travel, traffic control, and hazards shall be provided as directed by the County [City] Engineer. Street signs on exterior/boundary streets shall be installed by the County [City] with the developer paying a proportionate share determined by the County [City]. Street signs for interior streets of a subdivision or land development shall be installed at the subdivider or developer's expense by the subdivider or developer, subject to the approval of the County [City] Engineer.

Unless otherwise provided in standards and specifications adopted by the County [City] Engineer, street signs shall meet the following specifications. Signs shall be constructed of aluminum sheets with reflective backgrounds. Information on the street name signs shall be readable from both sides of the sign. Signs shall be installed on a steel post. The vertical distance from the road elevation to the bottom of the sign face shall be seven feet with a minimum burial depth of three feet.

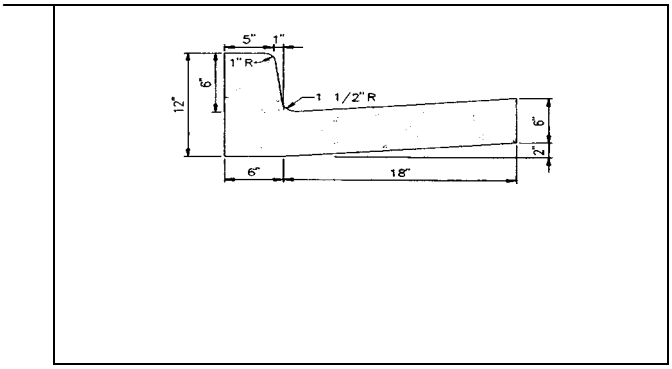
§2-3-13 CURBS AND GUTTERS

Curbs and gutters shall be installed if required by the County [City] Engineer in accordance with standards and specifications of the County [City] Engineer. Subdivisions consisting totally of lots intended for single-family residential use containing a minimum of two acres shall not require curbs and gutters, provided, however, that curbs are required for all roads when sidewalks are required by these regulations. All commercial and industrial subdivisions and land developments must have curbs and gutters, regardless of the size of the lots. When property

fronting on an existing County [City] street is subdivided or developed, and the subdivision or land development uses said existing street for access, then curb and gutter shall be required along said street along the entire property frontage of said street.

Curbs shall be concrete which shall be class A 3000 psi strength at 28 days. The typical curb minimum section shall be six inches by 24 inches by 12 inches (Figure 2-3-13.1).

Figure 2-3-13.1
Vertical Curb Detail



All streets and roads not required to include curbs and gutters shall be graded, paved, and drained to meet all construction and drainage standards for ditches, slopes, and grassing according to specifications established by the County [City] Engineer.

§2-3-14 SIDEWALKS

§2-3-14.1 When Required. Sidewalks shall be provided in accordance with the Comprehensive Plan, unless the Director determines that no public need exists for sidewalks in a certain location. Sidewalks shall be required when land developments and subdivisions are located within one-mile of a public school. Sidewalks are required to be installed along one side of the street internal to a major subdivision, except in cases where the average lot size of the major subdivision is two acres or more.

§2-3-14.2 Location. Sidewalks shall be included within the dedicated nonpavement right-of-way of roads and shall parallel the street pavement as much as possible; provided, however, the County [City] Engineer may permit sidewalks to be designed and constructed so that

they meander around permanent obstructions or deviate from a linear pattern for design purposes.

§2-3-14.3 Specifications. Sidewalks shall be a minimum of four feet wide. A median strip of grassed or landscaped areas at least two feet wide shall separate all sidewalks from adjacent curbs in residential areas.

Commentary: If the local Comprehensive Plan is construed to mean that sidewalks are required off-site, then the local government should consult its attorney about this provision.

§2-3-15 DRAINAGE AND STORMWATER MANAGEMENT

§2-3-15.1 General Requirements. An adequate drainage system, separate and independent of any sanitary sewer system and including any necessary ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water for all subdivisions and land developments. Sizing and location of all drainage structures shall be the responsibility of a registered professional engineer or land surveyor. The County [City] Engineer may require the use of on-site control methods such as retention or detention to mitigate the stormwater and drainage impacts of the proposed subdivisions and land developments. The Planning Commission shall not approve any preliminary plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins as determined by the County [City] Engineer. No building permit shall be issued for any building within a subdivision or for the development of land, if there is not present throughout the subdivision or to the land development an adequate system of drainage and stormwater management.

§2-3-15.2 Method of Design and Capacity. Storm sewers, where required, shall be designed by the Rational Method, or other methods as approved by the County [City] Engineer, and a copy of design computations shall be submitted along with required plans. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area within the site and shall be designed to prevent increases in downstream flooding. Capacity for a 10-year storm or rain shall be provided for all street drainage structures such as catch basin, inlets cross drains, etc. Capacity for a 100-year frequency storm event shall be provided for all main

drainage structures such as retention basins, principal storm sewers, and all types of flood protection works.

§2-3-15.3 Location. Drainage facilities shall be located in the road right-of-way where feasible, and shall be constructed in accordance with standards and specifications of the County [City Engineer]. Catch basins shall be located at low points of streets. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road right-of-way and with satisfactory access to the road.

§2-3-15.4 Discharge. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot or land development site to adjacent lots, land development sites, or vacant properties. Storm water shall not be discharged directly to perennial streams. It shall be directed toward natural drainages. If water must be discharged to a stream, the water quality flowing into the stream must meet or exceed the water quality in the receiving waters. The water quantity flowing into the stream must be evaluated to ensure the stream channel can accommodate the increased flows and not disrupt or degrade the ecology of the water body.

§2-3-15.5 Grading and Site Drainage. Lots or land development sites shall be laid out so as to provide positive drainage away from all buildings, and drainage for individual lots or land development sites shall be coordinated with the general storm drainage pattern for the area. Buildings and parking lots shall be appropriately drained so as to prevent damage to abutting properties or public streets. All disturbed or graded ground areas of a building site not used for buildings or open storage areas shall be appropriately stabilized and grassed or covered with plants or landscaping materials.

§2-3-15.6 Cross-Drainpipes. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, the design of which shall be approved by the County [City] Engineer. Cross-drains shall be provided to accommodate all natural waterflow, and shall be of sufficient length to permit full-width roadways and the required slopes. Cross drainpipes shall have head walls of an approved type on inlet and outlet ends of the pipe. Pipe installed within the right-of-way

shall be reinforced concrete pipe. All storm drainpipes shall be minimum 18 inches in diameter. Storm sewer slopes shall be equal to or greater than one percent.

§2-3-15.7 Drop Inlets. Drop inlets shall be generally three-foot by three-foot boxes with two-foot by three-foot grates unless otherwise specified by the County [City] Engineer.

§2-3-15.8 Easements. Where an irrigation ditch or channel, natural creek, stream or other drainage way crosses a subdivision or land development, the subdivider or developer shall provide an easement sufficient for drainage and maintenance. Easements shall be provided for all drainage facilities as approved by the County [City] Engineer. When a subdivision or land development is traversed by a watercourse, drainage way, channel, or intermittent stream, a stormwater or drainage easement of at least twenty (20) feet shall be provided.

§2-3-16 WATER

§2-3-16.1 Generally. All habitable buildings and buildable lots shall be connected to a water system capable of providing water for health and emergency purposes, including adequate fire protection. No building permit shall be issued for any building within a subdivision or for the development of land, if there is not present throughout the subdivision or to the land development an adequate water supply.

§2-3-16.2 Water Main Requirements. When a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants, according to specifications of the County [City] Engineer. All water mains shall normally be at least six inches in diameter except that pipe of lesser size may be used if properly looped and adequate water pressure is maintained in accordance with standards established by the Southeastern Fire Underwriters Association. Pipe of less than four inches shall not be used except in unusual cases. Water lines shall be installed at least 30 inches below grade. Water mains within subdivisions and land developments must be provided with connections to each lot in the subdivision and each land development, except as otherwise specifically provided.

§2-3-16.3 Wells. If a County and/or municipal water supply is not available to the subdivision or land development at the time of constructing improvements for a subdivision or

land development, then the subdivider or developer shall provide an adequate alternative water source and an adequate water storage facility. In subdivisions or land developments with a residential density of one unit per acre or less and when a public water system is not available as determined by the County [City] Engineer, individual wells may be used in a manner so that an adequate supply of potable water will be available to every lot in the subdivision or to the land development. When individual wells are proposed to be used for water supply, water samples shall be submitted to the County Health Department for its approval, and individual wells shall be approved by the County Health Department. Approvals shall be submitted to the Director prior to final subdivision plat approval.

§2-3-16.4 Community Water System. If a County and/or municipal water supply is not available to the subdivision or land development at the time of constructing improvements for a subdivision or land development, then the subdivider or developer shall provide an adequate alternative water source and an adequate water storage facility. Any community water system, if permitted, shall provide a minimum flow of 400 gallons per day per each lot platted, whether or not each lot is to be immediately developed; shall be sanitary; and shall have a minimum pressure of 30 pounds per square inch at each lot in the subdivision or each land development to be served. For all common non-public water supply systems, acceptable management, maintenance, and distribution policies and procedures shall be established. These policies and procedures shall be required to guarantee the provision of adequate supplies to each perspective lot owner on a continuing, ongoing basis, and to provide acceptable means for repairs and unforeseen events. The community water system plan shall be approved by the _____ County Health Department and a letter of approval from the Georgia Department of Natural Resources shall accompany the final plat or land development application.

§2-3-16.5 Fire Hydrants. Fire hydrants shall be required for all nonresidential land developments and all subdivisions except those permitted to be served by individual on-site wells. Fire hydrants with appropriate water pressure at appropriate intervals throughout the subdivision or land development shall be provided by the subdivider or land developer as required by the County [City] Fire Department. Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any principal dwelling. Hydrants, fittings, valves and fire department connections shall be approved by the Fire Department. Fire department connections shall be not less than 18 inches or more than 36 inches above the level of the adjoining ground or paving. The thread of such connections shall be uniform with that used by the Fire Department.

To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street within the right-of-way shared by such underground utilities.

§2-3-17 SEWER

§2-3-17.1 Generally. All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment. Each subdivision and land development shall be served by adequate sewage disposal facilities. No building permit shall be issued for any building within a subdivision or for the development of land, if there is not present throughout the subdivision or to the land development an adequate system of wastewater collection and treatment.

§2-3-17.2 Connection to Public Sewerage System. When a public sanitary sewerage system is reasonably accessible, as determined by the County [City] Engineer, the subdivider or land developer shall connect with same and provide sewers accessible to each lot in the subdivision or to each land development. If a public sanitary sewer is reasonably accessible, it shall be unlawful for any to maintain upon any such property an individual sewage disposal system. When a public sanitary sewerage system is not immediately accessible but is anticipated by the County [City] to be available within a period of three years, the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision or land development boundary so that a future connection with the public sewer main can be made. The County [City] Engineer may condition the approval of a subdivision or land development on the agreement to connect to the public sewerage system upon its availability. Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. No public sewer shall be less than eight inches in diameter. Manholes shall be installed in sanitary sewers with a maximum distance between two manholes of 400 feet, unless otherwise specified by standards of the County [City] Engineer. Sanitary sewer slopes shall be equal to or greater than 0.7 percent for eight inch lines. All sewer lines shall be designed with slopes to obtain a minimum velocity of two feet per second. Minimum 20-foot wide easements shall be provided for all sanitary sewer lines.

§2-3-17.3 Alternative Provision. If sanitary sewer is not available at the time of the development of the subdivision or land development, and if sanitary sewer is not anticipated to be

available within a period of three years to serve the subdivision or land development in question, then on-site septic tanks, an oxidation pond, or another approved method of treatment of sanitary sewerage shall be installed by and at the expense of the subdivider, land developer, or lot purchaser, in conformity with the requirements of the County Health Department and according to specifications adopted by the County [City] Engineer.

§2-3-17.4 Septic Tanks. Where individual onsite wastewater disposal systems are allowed and proposed, individual lot sizes and shapes must exhibit appropriate regard for the peculiar health, drainage, and maintenance characteristics on the site. Additionally, detailed soil tests may be required in order to verify the ability of the lots to safely contain and dispose of septic system effluent. All septic tanks and onsite wastewater disposal systems are subject to the approval of the _____ County Health Department.

§2-3-18 UTILITIES

All utility facilities, including but not limited to gas, electric power, telephone, and cable television, shall be located underground throughout the subdivision or land development. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. Easements centered on rear lot lines shall be provided for utilities, private and public, and such easements shall be at least 10 feet wide. When topographical or other conditions are such as to make impractical the inclusion of utilities along the rear lot lines of a subdivision, lot, or land development site, perpetual unobstructed easements at least 10 feet in width shall be provided along side lot lines with satisfactory access.

§2-3-19 OVERSIZING OF IMPROVEMENTS AND UTILITIES

The subdivider or land developer shall construct such oversized improvements and utilities that the County [City] Engineer determines are necessary, provided that the subdivider or land developer shall not be obligated for the additional cost of improvements and utilities that are not uniquely required for that development, and provided the subdivider agrees to a proposal by the County [City] Engineer to share in the cost arrangements for over-sizing improvements and utilities. A formula may be developed by the County [City] to provide for a sharing of the cost of

other improvements needed to serve the subdivision or land development when certain of the improvements are necessary to serve future subdivisions or developments in the vicinity.

§2-3-20 PROCEDURE FOR ADMINISTRATIVE INSPECTION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS

Upon completion of public improvement construction, the subdivider or land developer shall notify the Director of Engineering and request an inspection. The County [City] Engineer shall inspect all public improvements and shall notify the subdivider or land developer by mail of nonacceptance or preliminary acceptance. If the public improvements are not acceptable, the reason for non-acceptance shall be stated and corrective measures shall be outlined in a letter of notification. Upon notification, the subdivider or land developer shall correct all deficiencies identified in the non-acceptance letter within the time limit established by the County [City] Engineer. Once deficiencies are corrected, the subdivider or land developer shall again request inspection in writing. Acceptance of public improvements required by Section 2-2 of this code to be approved by the local governing body shall be forwarded to the governing body by the Director following receipt of written approval of the County [City] Engineer.

References:

Forsyth County Department of Public Works. 1995. Construction Standards and Specifications. Cumming, GA: Forsyth County Department of Public Works.

Jerry Weitz & Associates, Inc. 2001. Development and Design Guidelines for the Georgia 400 Corridor, Dawson County, Georgia. Dawsonville, GA: Dawson County Department of Planning .

§2-4 REFERENCE TO STATE PERMITS

CONTENTS

§2-4 REFERENCE TO STATE PERMITS

Commentary: This module provides references to major state land use and environmental laws as they relate to the permitting of specific land uses and categories of uses. While it is not the intent to incorporate state laws into this code or have local governments adopt state requirements, local Land Use Officers should be generally aware of the types of land uses that require compliance with state laws. This module provides that when a permit is required to be issued by the state, that a copy of said state permit be submitted to the Land Use Officer. This should not imply a responsibility of the local Land Use Officer to enforce state law; rather, it is intended simply to ensure that the local government has a record of the state permit which provides information to local constituencies who may be concerned about compliance with a particular development.

Commentary: It is not uncommon for a city or county without zoning to find out a certain major polluting facility is proposed to be located in its jurisdiction, only to further ascertain that it has no control over the location of such facility. It is important to note that the state environmental laws described in this module do not regulate the location of such facilities. Rather, they are intended only to review such uses for compliance with federal/state pollution and environmental laws. Cities and counties without land use regulations have been known to try and lobby the Department of Natural Resources to deny one or more required permits. However, the state must make permitting decisions in compliance with applicable laws and administrative rules,

and it cannot do the work of local government and regulate the location of such polluting land uses.

§2-4-1 GEORGIA AIR QUALITY ACT OF 1978 (O.C.G.A. § 12-9-1 ET SEQ.)

Commentary: Georgia's air quality statute mirrors the federal Clean Air Act and its regulations, but the state has also adopted rules unique to the state for specific sources of air emissions, in order to comply with attainment of National Ambient Air Quality Standards pursuant to its "state implementation plan."

Prior to constructing and operating any facility that may cause air pollution, a permit must be obtained from the Environmental Protection Division (EPD) of the Department of Natural Resources (DNR). The act has general standards governing all sources of air pollution; however, it has emission standards for specific sources of air pollution, including the following.

USE	USE	USE
Asphalt concrete hot mix plants (particulate emissions)	Fuel burning equipment (sulfur dioxide)	Petroleum dry cleaners (VOC emissions)
Automobile and light duty truck manufacturing (VOC emissions)	Gasoline dispensing facilities	Petroleum liquid storage
Bulk gasoline terminals and plants	Gasoline transport facilities	Petroleum refineries
Can coating (VOC emissions)	Granular and mixed fertilizer manufacturing plants (particulate emissions)	Portland cement plants
Coil coating (VOC emissions)	Incinerators	Solvent metal cleaning
Conical burners	Kaolin and fuller's earth processes (particulate emissions)	Sulfuric acid plants
Cotton gins (particulate emissions)	Kraft pulp mills	Surface coating of flat wood paneling (VOC emissions)
Cupola furnaces for metallurgical melting (particulate emissions)	Large appliance surface coating (VOC emissions)	Surface coating of miscellaneous metal parts and products (VOC emissions)
Cutback asphalt	Manufacture of pneumatic rubber tires (VOC emissions)	Synthesized pharmaceutical manufacturing (VOC emissions)
External floating roof tanks (VOC emissions)	Manufacturing processes (particulate emissions)	Volatile organic liquid handling and storage

USE	USE	USE
Fabric and vinyl coating (VOC emissions)	Metal furniture coating (VOC emissions)	Wire coating (VOC emissions)
Fiberglass insulation manufacturing plants	Nitric acid plants	
Fuel burning equipment (particulate matter)	Normal superphosphate manufacturing facilities	
Graphic arts systems (VOC emissions)	Paper coating (VOC emissions)	

Source: Sutherland, Asbill & Brennan. 1990. Georgia Environmental Law Handbook. Rockville, MD:Government Institutes, Inc.

§2-4-2 GROUND WATER USE ACT OF 1972 (O.C.G.A. § 12-5-90 TO § 12-5-107)

This state law requires a permit from the EPD to withdraw, obtain, or utilize ground waters in excess of 100,000 gallons per day for any purpose.

§2-4-3 GEORGIA WATER QUALITY CONTROL ACT (O.C.G.A. § 12-5-31)

This state law requires, with some exceptions, a permit for withdrawal of a monthly average of more than 100,000 gallons of surface water per day or the diversion or impoundment of more than 10,000 gallons of surface water per day.

§2-4-4 GEORGIA HAZARDOUS WASTE MANAGEMENT ACT (O.C.G.A. § 12-8-60 TO § 12-8-83)

Commentary: Georgia's hazardous waste management law incorporates by reference the Resource Conservation and Recovery Act of 1976 (RCRA, federal law, as amended), and regulations of the U.S. Environmental Protection Agency promulgated under RCRA. Georgia also has other laws that apply in limited circumstances.

Hazardous waste treatment, storage, and disposal facilities require a permit from the EPD. Permit requirements include having a corrective action program for any release of hazardous waste present at a facility, and to clean up such hazardous wastes released. Permits can be suspended or revoked by EPD for violations.

§2-4-5 GEORGIA COMPREHENSIVE SOLID WASTE MANAGEMENT ACT OF 1990 (O.C.G.A. § 12-8-20 TO § 12-8-40).

Commentary: All permits for solid waste handling facilities require written verification from the applicant that the proposed facility complies with local zoning and land use ordinances. For this reason, local governments should not make the prior receipt of state approval of solid waste management facilities a condition of local approval.

This act repealed the Georgia Solid Waste Management Act. Any person engaging in solid waste or special waste handling in Georgia, or operating or constructing a solid waste handling facility, must first obtain a permit from EPD. The term "solid waste handling" is broadly defined. Existing regulations for solid waste management and permitting of solid waste disposal facilities are codified in Chapter 391-3-4 of Georgia EPD. Such facilities cannot be located near National Historic Sites or within two miles of areas designated by EPD as significant groundwater recharge areas unless a liner and leachate collection system is installed (see Section 2-1-1 of this model code, groundwater recharge areas).

§2-4-6 COASTAL MARSHLANDS PROTECTION ACT OF 1970 (O.C.G.A. § 12-5-280 TO § 12-5-293). SHORE ASSISTANCE ACT OF 1979 (O.C.G.A. § 12-5-230 TO § 12-5-246)

Commentary: The state withdrew from the Federal Coastal Zone Management Program in 1979 and instead adopted its own program via the Shore Assistance Act of 1979. There are more than 400,000 acres of salt and brackish water marshlands along the coast of Georgia (Kundell et al. 1989).

These two laws establish specific permit programs for protecting coastal areas. The 1970 law requires a permit for the alteration of marshes, which requires proof of compliance with any local zoning restrictions. The 1979 law is aimed at protecting the state's coastal sand dunes, beaches, sandbars and shoals. Permit approval requires certification of a local governing authority that the proposal is in compliance with any zoning law, ordinance, or other local land use restrictions (Kundell et al. 1989). Local governing authorities can become permit-issuing agencies if they enact ordinances meeting or exceeding the requirements of the Shore Assistance Act and can enforce such regulations (Kundell et al. 1989).

§2-4-7 GEORGIA SURFACE MINING ACT OF 1968 (O.C.G.A. § 12-4-70 ET SEQ.)

Commentary: Virtually all mining in the state is surface mining for stone, clays, and other industrial minerals including barite, marble, bauxite, kaolin, mica, talc, and limestone.

Surface mine operators are required to obtain a mining permit from EPD before commencing operation of a mine. Applications for permits must be accompanied by a mined land use plan, which includes reclamation activities.

§2-4-8 ENDANGERED WILDLIFE ACT OF 1973 (O.C.G.A. § 27-3-130 TO § 27-3-133). WILDFLOWER PRESERVATION ACT OF 1973 (O.C.G.A. § 12-6-170 TO § 12-6-176)

Rules adopted by EPD make it unlawful to engage in an act that causes the death of a protected animal, and the destruction of the habitat of a protected animal on public land is prohibited. It is also unlawful to remove protected plant species from public land without a permit.

§2-4-9 BURIAL GROUNDS AND CEMETERIES (O.C.G.A. § 27-3-133; § 12-6-176)

Georgia law prohibits disturbance of any known burial place for human remains for the purpose of developing or changing the use of land unless a permit is obtained from the governing authority of the city or county (the jurisdiction in which the burial site is located) or from the superior court of the county in which the burial place is located. Reinternment is required for a permit to be issued.

§2-4-10 GEORGIA SAFE DAMS ACT OF 1978 (O.C.G.A. § 12-4-143 TO § 12-4-146)

This law provides for the inspection and permitting of dams to protect the health, safety, and welfare of citizens by reducing the risk of failure of such dams. DNR has promulgated rules and regulations enforcing the act.

References:

Kundell, James E., et al. 1989. Land-use Policy and Protection of Georgia's Environment. Athens, GA: University of Georgia, Carl Vinson Institute of Government.

Sutherland, Asbill & Brennan. 1990. Georgia Environmental Law Handbook. Rockville, MD: Government Institutes, Inc

§2-5 ALTERNATIVE STREET AND PEDESTRIAN SYSTEM STANDARDS

Commentary: For an extended commentary on street and pedestrian standards, see the extended commentary following this module of the Model Code: Alternatives to Conventional Zoning.

§ 2-5-1 PURPOSE

The purpose of this Code section is to provide for alternative street specifications that will reduce construction costs to developers, provide flexibility to developers and minimize right-of-way widths, pavement widths, turnaround dimensions and intersection curb radii. It is also the intent of this Code section to maintain safety standards, provide for more pedestrian-friendly street environments, afford appropriate access for bicyclists, facilitate implementation of the county's [city's] multi-modal transportation element of its comprehensive plan and in general provide for more healthy neighborhoods and commercial areas.

§ 2-5-2 DEFINITIONS

Americans with Disabilities Act (ADA): Federal civil rights legislation passed in 1990, which requires accessibility for disabled persons.

Alley: A slow-speed service road running behind and sometimes between rows of houses, which provides public service and utility access and secondary or primary access to off-street parking for residences or businesses.

Arterial street: Unless otherwise specifically defined in the transportation element of the comprehensive plan, arterial streets are roads designed to carry traffic through an area rather than to local destinations.

Avenue or main street: A two-lane road, classified as a collector street, with or without a raised center island median, that provides for on-street parking and bicycle lanes in both directions of flow.

Average Daily Traffic (ADT): The measurement of the average number of vehicles passing a certain point each day, for both directions of travel though directional counts may be provided.

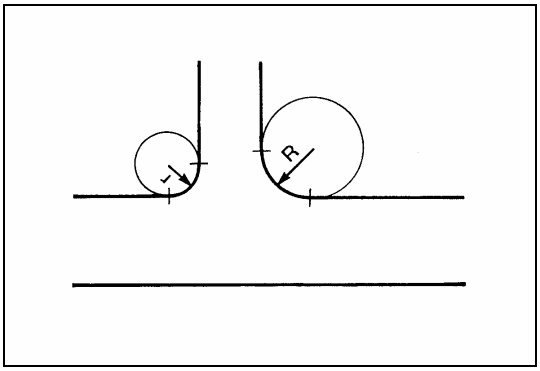
Boulevard: A multi-lane access road, classified as an arterial street, which carries regional traffic and provides access to commercial and mixed-use buildings. Travel lanes of different directions are separated by a raised center island. Boulevards provide for bicycle lanes and on-street parking alongside the travel lanes in both directions of flow.

Collector street: Unless otherwise specifically defined in the transportation element of the comprehensive plan, collector streets are roads designed to carry traffic between local streets and arterials, or from local street to local street.

Crosswalk: A portion of a roadway designated for pedestrian crossing, marked or unmarked. Unmarked crosswalks are the natural extension of the shoulder, curb line or sidewalk.

Curb radius: The curved edge joining the intersecting street curbs at a street corner, also known as curb-return radius and intersection curb radius.

Figure 2-5.2 Curb Radius



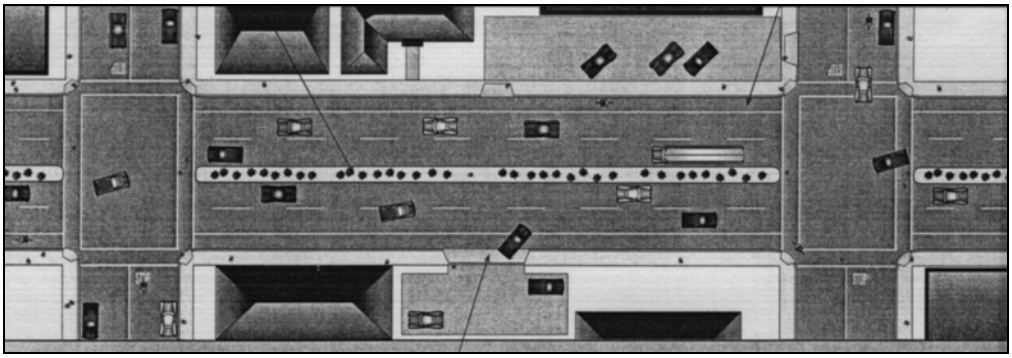
Source: Kulash, Walter M. 2001. Residential Streets, 3rd Ed. Washington, DC: Urban Land Institute, National Association of Home Builders, American Society of Civil Engineers, and Institute of Transportation Engineers. p. 55. Reproduced with permission of the Urban Land Institute. (www.uli.org)

Lane: A street designed for primary access to no more than 25 residential dwelling units, where the residential environment is dominant and traffic is completely subservient.

Local street: In the context of this Code section only, local streets are designed for primary access to individual residential property, where traffic volumes are relative low (250 - 750 Average Daily Traffic).

Median: The portion of a roadway which separates opposing traffic streams.

Median, raised: A non-traversable median where curbs are used to elevate the surface of the median above the surface of the adjacent travel lane. Pedestrians may normally cross a raised median but vehicles may not.



Source: Oregon Transportation and Growth Management Program. 1998. Main Street…When a Highway Runs Through It: A Handbook for Oregon Communities. Salem, OR: Transportation and Growth Management Program.

Parkway: A multi-lane access road, classified as an arterial street, which carries regional traffic but does not provide access to abutting properties. Travel lanes of different directions are separated by a wide, raised center island. Pedestrian and bicycle access is provided via a multi-use trail or path separated from the travel lanes by a wide landscape strip.

Pavement width: The width of a given lane, street or other road pavement width, measured from back-of-curb to back-of-curb, or to the edge of pavement where no curbs are required or exist.

Pedestrian friendly: Design qualities that make walking attractive, including places people want to go and desirable facilities on which to get there.

Planting strip: That portion of a road or street crossection which accommodates street trees, shrubs and/or ground cover, depending on width.

Refuge island: A non-traversable section of median or channelization device on which pedestrians can take refuge while crossing a highway, street or road.

Right-of-way: The composite public area dedicated exclusively to circulation, including the travel way, and, if provided, medians, planting strips, bicycle lanes, and parking lanes, along with any accompanying shoulders or utility corridors held in fee-simple title by the public.

§ 2-5-3 STREET STANDARDS

§ 2-5-3.1 Alleys. Alleys may be provided, in accordance with the following specifications.

Total Pavement (Width in Feet)	Travel Lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Sidewalk(s) (Width in Feet)	Shoulder (Width in Feet)	Total Right-of-Way Required (Width in Feet)
12’	One 12’ (one-way only)	None	None	3’	15’
16’	One 9’ (one-way only)	One 7’	None	4’	20’
20’	Two 10’	None	None	5’	25’

Commentary: Because alleys are not typically curbed, the standards provide for some minimal shoulder area. Urban Land Institute et al. (2002, 29) recommend that “instead of curbs, planners should consider a two-inch invert in the cross-section of the alley pavement for stormwater runoff.” Generally, one-way alleys should not be provided.

Commentary: As noted in the extended commentary that precedes this module, the widest fire truck is approximately 9.5 feet wide, and so 10- or 11-foot wide travel lanes are considered adequate. The most adamant proponents of “skinny” streets would argue that lanes only need to be nine (9) feet wide with a seven (7) foot parking lane, and that free-flow in both directions is not required for low-volume streets. The Urban Land Institute et al. (2002) suggest that an 18-foot wide pavement is adequate for low-volume streets where no parking is expected, but they also indicate that striped parking lanes should be eight feet wide. Although a community may pursue such design options that will provide the “skinniest” of the skinny streets, this Code module assumes that fire codes will prevent a reduction of two-way paved areas below 20 feet.

§ 2-5-3.2 Lanes. Lanes, as defined, may be used for principal access to residential dwellings, provided that any individual lane shall provide access to no more than 25 dwellings. The subdivider may choose from one of the following design options and shall construct the lane or lanes in a manner consistent with one the design specifications of this subsection:

Lane

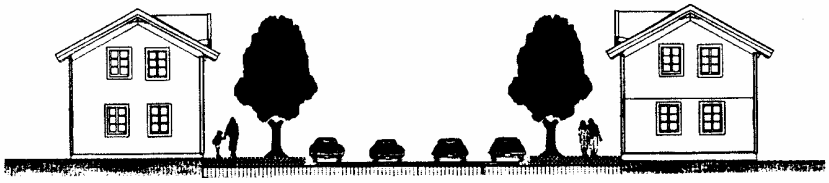
Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities, p. 20.

Total Pavement (Width in Feet)	Travel Lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Sidewalk(s) (Width in Feet)	Planting Strip (Width in Feet)	Total Right-of-Way Required (Width in Feet)
21’	One 14’	One, 7’	One side, 7’	Two, 6’ each	40’
28’	One 14’	Two, 7’ each	Two, 6’ each	Two, 6’ each	45’
27’	Two, 10’ each	One, 7’	Two, 5’ each	One 6’, one 7’	50’

Commentary: A 14-foot wide lane is technically wide enough to accommodate two cars passing, though it provides for tight passing with no room for error. Permitting parking on both sides of the street may allow for reductions in front building setbacks (which are often established to allow for 20 feet of parking in a residential driveway), and eliminate the need for garages, thus contributing to a nontraditional character and/or more affordable, pedestrian-friendly neighborhoods. Skinny street standards do not appear to provide extra room for utilities, or they assume that whatever utilities are required can be provided under the street pavement width or within the planting strips. Communities that are concerned about maximizing the right-of-way use without designating utility corridors within the right-of-way can add five feet to the required right-of-way width specified in this module. Planting strips do not have to be 6 - 7 feet wide; some communities provide only a two-foot wide grass-strip between the sidewalk and curb. However, to provide sufficient space for street trees, the specifications provided herein generally require at least a six-foot wide planting strip.

§ 2-5-3.3 Local Streets. Local streets, as defined, may be used for principal access to residential dwellings, and they are normally not expected to exceed 750 ADT as estimated by the County [City] Engineer. For individual streets with ADT of more than 750 as estimated by the

County [City] Engineer, the subdivider shall provide a local street meeting the 60-foot right-of-way (34-foot pavement width). The subdivider shall construct the street or streets in a manner consistent with one of the alternative design specifications of this subsection, as approved:



Street
(60' R/W Cross Section Shown)

Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities. p. 21.

Pavement (Width in Feet)	Travel lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Sidewalk(s) (Width in Feet)	Planting Strip (Width in Feet)	Total Right-of-Way Required (Width in Feet)
20'	Two, 10' each	None	One 5'	One 7', one 8'	40'
20'	Two, 10' each	None	Two, 5' each	One 7', one 8'	45'
27'	Two, 10' each	One 7'	Two, 5' each	One 6', one 7'	50'
27'	Two, 10' each	One 7'	Two, 6' each	Two, 8' each	55'
34'	Two, 10' each	Two, 7' each	Two, 6' each	Two, 7' each	60'

Commentary: Sidewalks are recommended on both sides of the street; however, those communities that find a sidewalk on one side is sufficient (preferably on low-volume, low-density residential streets) can reduce right-of-way widths to 40 feet. A five-foot wide sidewalk is considered sufficient (some suburban standards remain at four feet, although slightly wider sidewalks might be preferred in some jurisdictions).

§ 2-5-3.4 Avenues and Main Streets. Where a collector street is called for in the transportation element of the county's [city's] comprehensive plan, the subdivider or developer shall construct the collector street or streets in a manner consistent with the design specifications of this subsection for avenues and main streets. If bicycle routes are called for in the

transportation element of the comprehensive plan, the avenue or main street shall include bicycle lanes and the subdivider or developer shall utilize one of the 46-foot total pavement options that includes bicycle lanes as specified below.

Avenue
(80' Right-of-Way With
Raised Center Median and Bike Lanes)

Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities. p. 21.

Total Pavement (Width in Feet)	Travel Lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Bicycle Lane (Width in Feet)	Center Island Median (Width in Feet)	Sidewalks (Width in Feet)	Planting Strip (Width in Feet)	Total Right-of-Way Required (Width in Feet)
36'	Two, 11' each	Two, 7' each	None	12'	Two, 5' each	Two, 6' each	70'
46'	Two, 11' each	Two, 7' each	Two, 5' each	None	Two, 6' each	Two, 6' each	70'
46'	Two, 11' each	Two, 7' each	Two, 5' each	12'	Two, 5' each	Two, 6' each	80'
46'	Two, 11' each	Two, 7' each	Two, 5' each	None	Two, 6' each	Two, 6' each	70'

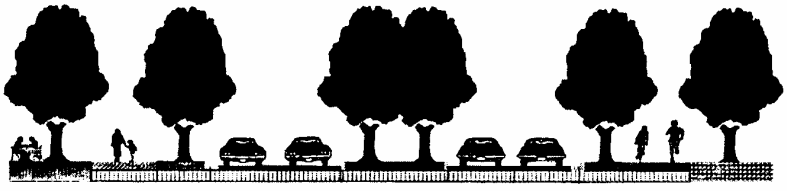
§ 2-5-3.5 Boulevards. Where an arterial street is called for in the transportation element of the comprehensive plan, the subdivider or developer shall construct the arterial street or streets in a manner consistent with one of the design specifications of this subsection for boulevards, as approved, unless a parkway cross-section is called for, in which case the specifications for parkways shall be followed.

Boulevard
(104' Right-of-Way)

Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities. p. 22.

Total Pavement (Width in Feet)	Travel Lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Bicycle Lane (Width in Feet)	Center Island Median (Width in Feet)	Sidewalks (Width in Feet)	Planting Strip (Width in Feet)	Total Right-of-Way Required (Width in Feet)
70'	Four, 11' each	Two, 7' each	Two, 6' each	12'	Two, 5' each	Two, 6' each	104'

§ 2-5-3.6 Parkways. Where a restricted-access arterial street is called for in the transportation element of the comprehensive plan, the subdivider or developer shall construct the arterial street or streets in a manner consistent with one of the design specifications of this subsection for parkways, as approved, unless a boulevard cross-section is called for, in which case the specifications for boulevards shall be followed and access to individual properties abutting the boulevard shall be prohibited.



Parkway
(104' Right-of-Way)

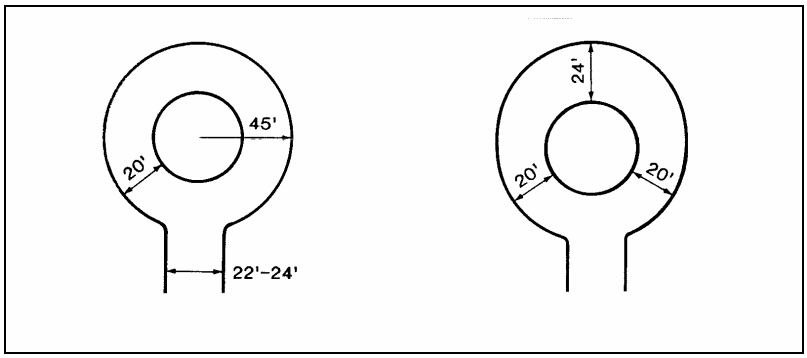
Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities. p. 22.

Total Pavement (Width in Feet)	Travel Lane(s) (Width in Feet)	Parking Lane (Width in Feet)	Bicycle Lane (Width in Feet)	Center Island Median (Width in Feet)	Multi-use Paths (Width in Feet)	Planting Strip (Width in Feet)	Total Right-of-Way Required (Width in Feet)
44’	Four, 11’ each	None	None	20’	Two, 10’ each	Two, 10’ each	104’

§ 2-5-3.7 Turnarounds. Alleys, lanes, and local streets that dead-end and which require a turnaround may be equipped with one of the following types of turnarounds; provided, however, that “T-shaped” or “Y-shaped” turnarounds (also called “hammerheads”) and cul-de-sacs with 30-foot pavement radii shall be permitted only for lanes serving ten (10) residences or less.

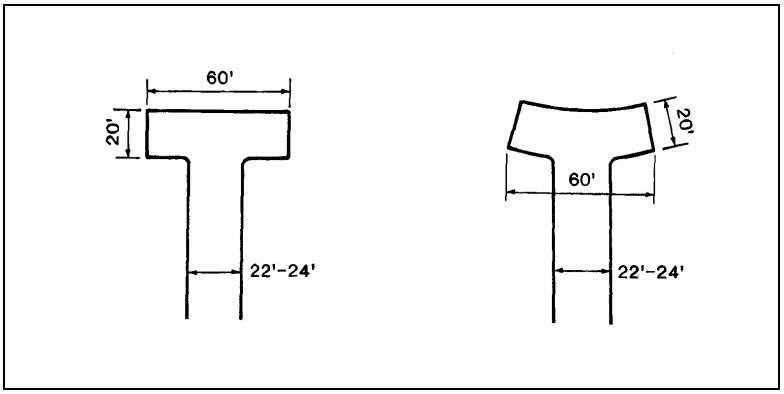
Type of Turnaround	Required Pavement (Feet)	Required Right-of-Way (Feet)
Cul-de-sac, no center island	30’ radius	40’ radius
Cul-de-sac, no center island	40’ radius	50’ radius
Cul-de-sac with center island	45’ radius, 20’ travel way except 24’ at end of circle opposite the street connection	55’ radius
“T-shaped”	60’ length by 20’ width	70’ length by 30’ width
“Y-shaped”	60’ length by 20’ width	70’ length by 30’ width

Specifications for Cul-de-sac with Center Island



Source: Kulash, Walter M. 2001. Residential Streets, 3rd Ed. Washington, DC: Urban Land Institute, National Association of Home Builders, American Society of Civil Engineers, and Institute of Transportation Engineers. p. 35. Reproduced with permission of the Urban Land Institute. (www.uli.org)

Specifications for Hammerheads



Source: Kulash, Walter M. 2001. Residential Streets, 3rd Ed. Washington, DC: Urban Land Institute, National Association of Home Builders, American Society of Civil Engineers, and Institute of Transportation Engineers. p. 35. Reproduced with permission of the Urban Land Institute. (www.uli.org)

§ 2-5-3.8 Curb radii. The curb radius at intersecting streets required depends on the type of street intersection. The following curb-radii specifications shall be met. For streets serving primarily commercial traffic, or for streets within industrial parks, the County [City] Engineer may require larger curb radii.

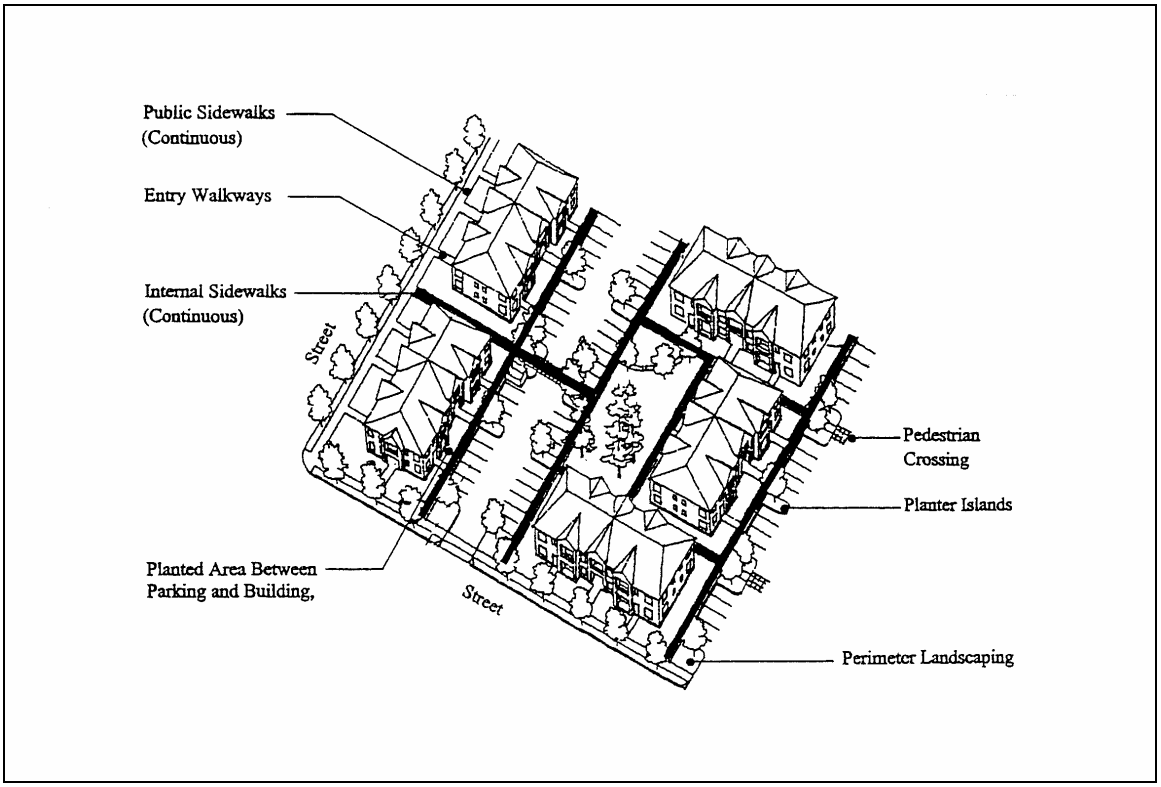
Type of Intersection	Curb Radius (Feet)
Lanes and Streets	15’
Avenues and Main Streets	25’
Boulevards and Parkways	Not to exceed 30’ except with the approval of the County [City] Engineer where necessitated by large truck movements

§ 2-5-4 PEDESTRIAN SYSTEM STANDARDS

Commentary: Sidewalk specifications are provided under the Section on Street Standards (see § 2-5-3). In addition, basic sidewalk standards are provided in § 2-3-14 of the Model Code.

§ 2-5-4.1 Pedestrian Connections from Development to Street. Individual developments, except for detached, single-family lots, shall provide direct pedestrian access

ways to all public sidewalks or multi-use trails when located adjacent to a public street abutting the property to be developed.



Source: OTAK. 1999. Model Development Code and User's Guide for Small Cities. Salem: Oregon Transportation and Growth Management Program.

§ 2-5-4 .2 Americans With Disabilities Act (ADA) Compliance. Sidewalk systems and multi-use trails shall be constructed in accordance with requirements of ADA.

COMMENTARY ON
ALTERNATIVE STREET AND PEDESTRIAN STANDARDS

OVERVIEW

Why Alternative Street Standards are Needed
Overcoming Obstacles to Reducing Street Standards
Relationship to the Model Land Use Management Code
Relationship to Existing Quality Growth Tool Descriptions

STREET DESIGN PRINCIPLES AND STANDARDS

Principles for Smart Street Design
A Healthy Street Typology
Alleys
Lanes
Local Streets
Avenues and Main Streets
Boulevards
Parkways
Turnarounds
Curb Radii

SIDEWALK AND PEDESTRIAN NETWORK PRINCIPLES AND STANDARDS

Principles for Sidewalks and Pedestrian Networks
When Sidewalks Should be Required
Sidewalk and Pedestrian Network Standards

BICYCLE FACILITY STANDARDS

Principles for Bicycle Facilities
Cycling Behavior
Types of Bicycle Facilities: Which is Appropriate?

RETROFITTING CONVENTIONAL SUBURBAN SUBDIVISIONS

Pedestrian Connections Between Cul-De-Sacs
Local Street Network Planning
Retrofitting Existing Rights-Of-Way and Local Streets

OVERVIEW

Streets are the most prevalent of public spaces, touching virtually every parcel of private land (Oregon Transportation and Growth Management Program 1998). Streets must be places rather than simply channels of movement (Ewing 1997, 65).

This extended commentary is intended to accompany Model Code provisions § 2-5 and § 2-6.

Why Alternative Street Standards Are Needed

It is increasingly accepted that street design standards have historically overemphasized automobiles, but that they need to introduce human-scale design. Many suburban communities have minimum street width requirements that are much greater than necessary, resulting in the wasteful use of land and encouraging motorists to speed through subdivisions. Many existing street standards have borrowed provisions of state highway manuals and applied them to neighborhoods (Burden et al. 2002).

Communities have historically borrowed subdivision street standards from state highway manuals and other communities without judging for themselves the local context in which they have chosen to apply them. Many of the street standards that govern land subdivisions are now out of character with the neighborhood and produce inappropriate behavior (e.g., speeding) by motorists (Burden et al. 2002). Some communities insist on "gold-plated" standards because it is the developer who is paying for the subdivision improvements. Wide subdivision street standards have been criticized as unnecessarily contributing to the costs of housing (Advisory Commission on Regulatory Barriers to Affordable Housing 1991).

Furthermore, some street standards no longer meet the need for which they were intended, or never served a valid public purpose in the first place. For instance, the Advisory Commission on Regulatory Barriers (1991) finds that communities establish cul-de-sac radius requirements that can accommodate the largest firefighting apparatus

— usually a ladder truck — even though a ladder track is never dispatched to single-family residential neighborhoods.

Overcoming Obstacles to Reducing Street Standards

Efforts to reform current street standards often must confront opposition from traffic engineers, who might insist that the existing street standards (which require wide pavement widths and generous turning radii) are required to ensure public safety. Street width standards can be reduced, however, without compromising safety, function, and performance. Space needed for emergency vehicles, for instance, is less than most local governments previously thought (Transportation and Growth Management Program 1998).

Furthermore, the width of vehicles is often less than expected. The average car or pickup truck is only about 5 ½ to 6 ½ feet wide, and even dump trucks and school buses are rarely more than 7 feet wide (Arendt 1994).

Traffic engineers cite the well-known "A Policy on Geometric Design of Highways and Streets" (1994) (a.k.a., the "Green Book") of the American Association of State Highway and Transportation Officials (AASHTO) in support of maintaining wide streets and generous geometric requirements for streets. As proponents of more human-scaled streets have noted (Marriott 1998; Burden 2002), however, AASHTO's Green Book supports in many ways the design of streets for pedestrians and bicyclists. When opposition to smaller street widths is encountered, proponents can cite the Green Book (excerpted by Burden et al. 2002) which indicates that, for certain single-family residential neighborhoods, it is acceptable and safe to have streets so narrow that there is only one unobstructed lane:

> "On residential streets in areas where the primary function is to provide land service and foster a safe and pleasant environment, at least one unobstructed moving lane must be ensured even where parking occurs on both sides. The level of user inconvenience occasioned by the lack of two moving lanes is

remarkably low in areas where single-family units prevail" (AASHTO Green Book, "Number of Lanes," p. 431, cited in Burden et al. 2002).

"On these [narrow residential] streets, with intermittent on-street parking, the street's width may occasionally require one driver to slow down or pull over to let an oncoming vehicle pass before proceeding, particularly if one of the vehicles is a truck or other large vehicle. The keys here are the words "occasionally" requiring drivers to pull over or stop and "intermittent" on-street parking that allows such pulling over….From the designer's perspective, where volumes are low and large vehicles are few, one may actually only need a single, relative clear or through lane" (Institute of Transportation Engineers 1999, 5).

Furthermore, when local fire chiefs argue that street standards cannot be reduced because skinnier streets will hinder access by fire trucks, proponents of skinny streets can reply by citing the following evidence:

> A study of fire trucks and suitability of access of residential streets in Winter Park, Florida, revealed the following: Winter Park Fire Department trucks are 9.5 feet wide (from mirror to mirror). Fire fighters chose 20 of Winter Park's narrowest streets, which included streets as narrow as 16 feet wide with parking on one side. Other streets with parking on both sides had street widths of 22-24 feet. The Winter Park Fire Department officials assured the study sponsors that they could navigate any street in the city (Burden et al. 2002).

The most confining street situation for emergency vehicles is the local street with cars parked on both sides. The parked cars occupy 13 to 14 feet of the roadway, leaving ten to 13 feet for the passage of emergency vehicles, even on a minimal 24- to 26-foot-wide street. The maximum width of a standard pumper is eight feet, excluding mirrors. Thus, even with parked vehicles present on both sides of a local street, a standard pumper can freely negotiate the street (Urban Land Institute et al. 2001).

<u>Relationship to the Model Land Use Management Code</u>

Section 2-3 of the Model Code (Alternatives to Conventional Zoning) provides basic improvement requirements for streets and sidewalks (see § 2-3-9, "Requirements for Streets," and § 2-3-14, "Sidewalks"). The minimum pavement width requirement for local streets in § 2-3-9 is not excessive at 24 feet; in fact, that requirement is less than many suburban subdivision street standards. However, the street standards of § 2-3-9 of the Model Code imply the conventional street hierarchy of arterial, collector, and local streets and wide radii for cul-de-sac rights-of-way and pavement widths. With regard to sidewalks, the requirements of § 2-3-14 of the Model Code only require a sidewalk be constructed on one side of the road.

Communities are encouraged to be more flexible in establishing street standards that will encourage pedestrian use, reduce cost requirements and promote quality of place. The standard specifications in § 2-3-9 and § 2-3-14 do not necessarily serve those objectives. For these reasons, and to provide additional flexibility, a set of flexible street standards is provided as an additional module of the Model Code (see § 2-5). In addition, because bicycle facilities are not addressed in § 2-3-9, an additional module with bicycle facility standards is provided (see § 2-6).

STREET DESIGN PRINCIPLES AND STANDARDS

Principles for Smart Street Design

- Streets should be "skinny," or no wider than the minimum width needed to accommodate the typical and usual vehicular mix that the street will serve.
- Residential streets should be built at a variety of widths, depending on their function and hierarchy in the street system.
- Smart development encourages people to take alternative modes: riding transit, biking, or walking. Streets should be designed with different users in mind, including bicyclists and pedestrians (nonmotorized travel).
- If streets are more than two lanes, they should be divided by wide, planted medians to appear more like two one-way streets.
- Cul-de-sacs and other dead-end streets hinder connectivity and should be avoided wherever possible. Short loops and cul-de-sacs are acceptable as long

as higher-order streets (arterials, collectors) offer many interconnections and direct routing.

- Higher-order streets (arterials, collectors) should be spaced one-half mile or less apart, or the equivalent route density in an irregular road network.
- All streets, except for alleys and roads in rural areas or adjacent to natural settings such as parks, should have vertical curbs. A vertical curb clearly distinguishes the space allocated for the automobile from the space provided for pedestrians and people in wheelchairs. Rollover curbs encourage drivers to park their cars up on the sidewalks and therefore create a hostile environment for pedestrians.

A HEALTHY STREET TYPOLOGY

TYPE	PURPOSE	RIGHT-OF-WAY WIDTH	ROAD PAVEMENT WIDTH	OTHER FEATURES
Alleys	Service access	20 feet	10 -12 feet	
Lanes	Access to homes	38 feet	16 -18 feet	Landscaping and sidewalks
Streets	Access to single and multi-family housing	48 - 50 feet	24 - 26 feet	Landscaping and sidewalks; on-street parking on both sides
Avenues	Connect neighborhoods to town centers	80 feet	48 feet	Raised center median; landscaping, sidewalks, bike lanes and on-street parking on both sides
Main Streets	Neighborhood and commercial access	60 feet	36 feet	Landscaping, sidewalks and on-street parking on both sides
Boulevards	Multi-lane access to commercial buildings; carry regional traffic	104 feet	70 feet	Raised center median; landscaping, sidewalks, bike lanes and on-street parking on both sides
Parkways	Carry traffic through natural areas; not designed to accommodate adjoining development	120 feet	44 feet	Four travel lanes; raised center median; landscaping and trails (separate bike and pedestrian access) on both sides

Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento Local Government Commission.

The paragraphs below summarize the typology of street types that are specified in the accompanying model code provisions. Generally, options are provided which give the community flexibility in terms of whether on-street parking is permitted. Traffic engineers refer to two conditions, yield-flow and slow-flow operations as described below:

- Yield-flow operation: two parking lanes and one traffic lane.
- Slow-flow operation: one parking lane and two traffic lanes.

The number of lanes required can, of course, vary based on whether the street is one-way or two-way.

Alleys

Alleys are sometimes prohibited in conventional suburban subdivision codes. In others, they are permitted but perhaps discouraged with excessive pavement width requirements. In neotraditional developments (TNDs), alleys are encouraged. Many TNDs have alleys, with garages and carports fronting the alley rather than the street. "Locating garages and driveways at the rear of properties [and accessed by alleys] improves the streetscape by eliminating the sight of cars parked in driveways and avoiding house designs that present the garage as the dominant feature seen from the street." (Urban Land Institute et al. 2002)

Typically, alleys have 20-foot rights-of-way. In cases where two-way travel is desired, or parking is permitted, alleys are typically constructed to a width of 16 feet. Burden et al. (2002) suggest that alleys can be as skinny as 10 -12 feet wide, implying that one-travel lane is considered sufficient for alleys. If subdivision blocks are kept short, the lengths of any given alley segment is also kept short, and thus the inconvenience of a garbage truck or other obstruction occupying the travel lane (and delaying access by others) is mitigated. Parking should be prohibited on skinnier alleys. Curbs are rarely provided (or needed) for alleys.

Lanes

Burden et al. (2002) suggest that lanes can be as skinny as 16 -18 feet of pavement width and rights-of-way as narrow as 38 feet. The local street network plan for Eugene,

Oregon, provides specifications for access lanes with pavement widths of 21 feet to 28 feet depending on use and flow options. Most local governments will not reduce their pavement width for a lane below 20 feet due to fire code requirements for access.

Local Streets

The Model Code street specifications (see § 2-5 which follows this commentary) provide alternatives for local streets ranging from pavement widths of 20 - 34 feet (right-of-way widths of 40 - 60 feet).

Avenues and Main Streets

Avenues are designed to connect residential neighborhoods to town centers. They are also sometimes referred to as residential collectors in the conventional hierarchical system of roads. They accommodate bicycle and transit use, and they can be equipped with a raised center island median. On-street parking is optional.

Main streets provide access to neighborhoods and commercial and mixed-use buildings. Typically, on-street parking is provided. Bike lanes are optional but preferred. Center island medians are usually not provided, but “bulbouts” (curbed intrusions into the line of traffic to slow vehicles) are often provided to calm traffic and extend sidewalks into the roadway (thereby shortening walking distance while maintaining safety).

Boulevards

Boulevards are multi-lane access ways for commercial and mixed-use buildings and regional traffic. Boulevards are typically designed with bike lanes, sidewalks and sections of on-street parking.

Parkways

Parkways carry regional traffic and are not designed to provide access to abutting properties. Typically, parkways adjoin natural areas. Bike paths are often found on the edges of parkways, separated from traffic lanes by distances of at least ten (10) feet, sometimes 100 feet or more.

Turnarounds

Suburban subdivision street standards often limit the options for turnarounds to a cul-de-sac and specify excessive radii for cul-de-sacs (i.e., the distance from the center of the circular turnaround to the edge of the circular turnaround). For instance, some communities still require 60-foot right-of-way radii and 50-foot pavement radii for cul-de-sacs. Section 2-3 of this Model Land Use Management Code establishes a 50-foot right-of-way radius and a 40-foot pavement radius (from back-of-curb) for cul-de-sacs. Even that standard may be considered excessive in some cases, however, as noted in the excerpt below:

"The recommended radius for the paved area of a circular turnaround without a center island serving passenger vehicles is 30 feet. If frequent use of the turnaround by single unit vehicles (municipal services equipment, school buses) is likely, a 42-foot radius may be required. Single unit vehicles can use a turnaround with a 30-foot radius, but backing would be required. A 42-foot radius can accommodate SUVs and other large passenger vehicles as well as all commercial and service vehicles with a regular need to visit residential streets, including school buses, all types of delivery trucks, emergency vehicles, solid waste collection trucks and repair services vehicles." (Urban Land Institute et al. 2002, 33-34)

Circular turnarounds (i.e., cul-de-sacs) are usually preferred, because they do not normally require backing-up movements. Cul-de-sacs do not necessary have to be completely paved over; alternative standards allow for center islands within cul-de-sacs.

There are other alternatives as well, such as "T-shaped" or "Y-shaped" turnarounds which can be used for short streets and alleys serving up to ten houses. These alternative turnaround designs require all vehicles to make a backing-up movement, but that inconvenience can be justified on streets with low traffic volumes. One justification is that such alternative turnarounds yield a paved area only 43 percent as large as the smallest (30-foot radius) turnaround. They also have lower construction and maintenance costs and provide greater flexibility in land planning. (Urban Land Institute et al. 2002)

<u>Curb Radii</u>

Curb radii are important because they allow vehicles to make turning movements. If they are insufficient, a vehicle may not be able to make the turn without scrubbing or bumping into the curb. Curb radii need to accommodate the expected amount and type of traffic and allow for safe turning speeds. As the curb radius increases, the paving cost increases, as does the distance that a pedestrian must cross. As curb radii increase, the speed of turning movement increases. When curb radii are excessive, drivers can make turns at excessive speeds. These reasons suggest that curb radii standards should be reviewed to ensure they meet safety requirements but are not excessive (Urban Land Institute et al. 2002). When curb radii are 30 feet or more, the likelihood that a vehicle will stop to make a right-hand turn decreases, because
the larger curb radii creates a "free-right" or continuous turning movement (Institute of Transportation Engineers 1999). The AASHTO Greenbook recommends 25-foot or more curb radii at minor cross streets, 30 feet or more at major cross streets and 40 feet or more where large truck combinations and buses turn frequently (Oregon Transportation and Growth Management Program 1999). Curb radii exceeding 30 feet, however, should only be required where absolutely necessary for large truck turning movements.

SIDEWALK AND PEDESTRIAN NETWORK PRINCIPLES AND STANDARDS

Principles for Sidewalks and Pedestrian Networks

- Smart street design requires an emphasis on the role of pedestrians in addition to vehicular traffic.
- "Emphasis has been placed on the joint use of transportation corridors by pedestrians, cyclists and public transit vehicles. Designers should recognize the implications of this sharing of the transportation corridors" (AASHTO Green Book).
- "Pedestrians are a part of everyday roadway environment and attention must be paid to their presence in rural as well as urban areas" (AASHTO Green Book).
- "Sidewalks are integral parts of city streets, but few are provided in rural areas. Yet, a need exists in many rural areas because the high speed and general absence of adequate lighting increase the accident potential to those walking on or adjacent to the traveled way" (AASHTO Green Book).

- As a general practice, sidewalks should be constructed along any street or highway not provided with shoulders, even though pedestrian traffic may be light" (AASHTO Green Book).
- "Sidewalks used for pedestrian access to schools, parks, shopping areas and transit stops and placed along all streets in commercial areas should be provided along both sides of the street" (AASHTO Green Book).
- "In residential areas, sidewalks are desirable on both sides of the street but need to be provided on at least one side of all local streets" (AASHTO Green Book).
- A comfortable, convenient, and safe street environment is necessary to encourage non-motorized travel. Sidewalks should be required along all potential pedestrian routes to make walking safer and more convenient.
- New subdivisions must have direct pedestrian and bicycle connections to adjacent schools, community centers and commercial areas.
- Developments should be required to provide pedestrian connections on private properties to public sidewalks.
- Trips can be shortened through good site planning. Pedestrians like to follow the "path of least resistance" and thus will cut corners to keep their routes as direct as possible. Short, straight streets and sidewalks help minimize distance traveled and increase pedestrian use.

Providing isolated refuge islands or intermittent accommodations is not sufficient; pedestrians and bicyclists need a continuous network.

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§ 2-6 BICYCLE FACILITY SPECIFICATIONS

Commentary: For an extended commentary on bicycle facility standards, see the extended commentary following this module of the Model Code: Alternatives to Conventional Zoning.

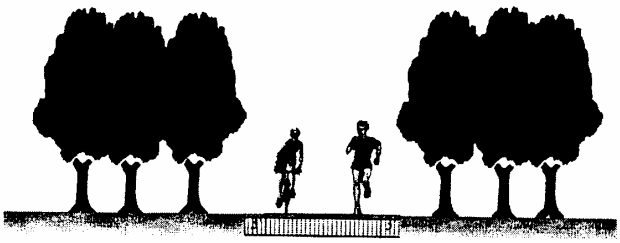
§ 2-6-1 PURPOSE

The purpose of these regulations is to implement the provisions of the county's [city's] multi-modal transportation plan [transportation element of the comprehensive plan]. The bike facility specifications are intended to ensure that safe, adequate and well-designed facilities are provided for bicyclists. Implementation of these specifications allows more people to ride bicycles for short-distance personal, business, social and recreational trips.

§ 2-6-2 DEFINITIONS

Bicycle lane: A portion of the roadway that has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

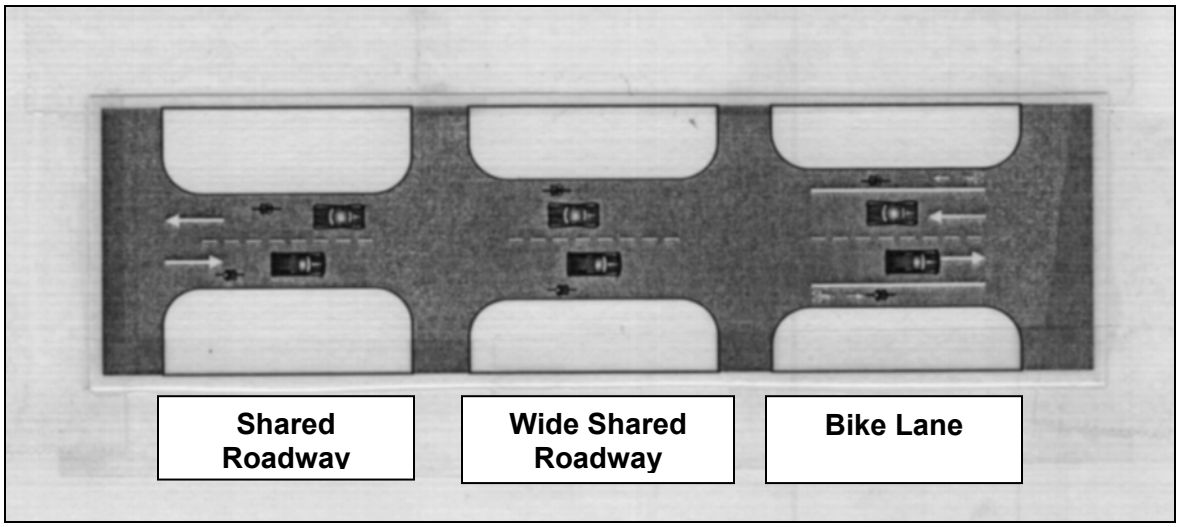
Bicycle path: A bikeway physically separated from motor vehicle traffic by an open space or barrier and within the highway or road right-of-way or within an independent right-of-way.
Grade: A measure of the steepness of a bikeway or other way, expressed in a ratio of vertical rise per horizontal distance, usually in percent.
Multi-use trail: A path that does not permit motorized vehicles (except for publicly authorized emergency and service vehicles) and which may accommodate multiple nonmotorized uses, including bicyclists, pedestrians, wheelchair users, joggers, pet owners, roller bladers, skateboarders, etc.).



Multi-Use Trail

Source: Burden, Dan, with Michael Wallwork, Ken Sides, Ramon Trias, and Harrison Bright Rue. 2002. Street Design Guidelines for Healthy Neighborhoods. Sacramento: Local Government Commission, Center for Livable Communities. p. 19.

Pavement markings: Painted or applied lines or legends placed on a roadway surface for regulating, guiding or warning traffic.
Shared roadway facilities: Streets and highways where bicycle use is legally permitted along with vehicular use, but where there are no special provisions (signs, striping, etc.) for bicycle travel.



Source: Oregon Transportation and Growth Management Program. 1998. Main Street…When a Highway Runs Through It: A Handbook for Oregon Communities. Salem, OR: Transportation and Growth Management Program.

Shoulder: The portion of a roadway contiguous with the travel way for accommodation of stopped vehicles, for emergency use and for lateral support of the subbase, base and surface courses.

§ 2-6-3 PROVISION OF BICYCLE FACILITIES

When the county's [city's] comprehensive plan designates a bike facility to be provided within or abutting a proposed development, the county [city] should review the proposed development to determine the extent to which the proposed bicycle facility can be accommodated.

(a) Such bicycle facilities may be provided by the private developer via incorporation of bicycle paths and/or bicycle lanes internal to the development.

(b) Such bicycle facilities may be provided by public or private, or combination public-private funding as a bicycle path. Alternatively, subject to the approval of the County [City] Engineer, a bicycle lane may be incorporated within the right-of-way of a public road abutting the proposed development. Furthermore, a bicycle path may be provided in its own dedicated right-of-way.

(c) A multi-use trail shall be considered a bicycle path for purposes of this section.

§ 2-6-4 DESIGN REQUIREMENTS FOR ALL BICYCLE FACILITIES

The provisions of this section shall apply to all types of bicycle facilities:

§ 2-6-4.1 Intersection Crossings. When a bicycle lane, bicycle path, or multi-use trail crosses a road intersection or a railroad, ramps and adequate warning and safety signing and striping must be provided, subject to the approval of the County [City] Engineer.

§ 2-6-4.2 Markers and Signage. Designated bicycle routes shall be equipped with bicycle route markers, mile markers (for routes more than two miles) and other appropriate signs and markers as determined by the County [City] Engineer and consistent with the Manual on Uniform Traffic Control Devices or other specifications accepted by the County [City] Engineer.

§ 2-6-4.3 Drainage Grates. Grates comprised of bars running parallel to the direction of travel shall not be used.

§ 2-6-5 DESIGN REQUIREMENTS FOR BICYCLE PATHS

The provisions of this section shall apply to bicycle paths, as defined.

§ 2-6-5.1 When Appropriate. Along major and minor arterial streets, bicycle paths are the appropriate type of bicycle facility. If adequate right-of-way is not present or cannot be acquired, the County [City] Engineer may approve another bicycle facility type be installed along said arterial street.

§ 2-6-5.2 Minimum Bicycle Path Width. The minimum width for a bicycle path shall be ten (10) feet; provided, however, that the County [City] Engineer may reduce this required width to eight (8) feet, in instances where he or she finds bicycle traffic and pedestrian use will be light, and where the path presents a satisfactory and safe alignment vertically and horizontally. The County [City] Engineer may also authorize a reduction of the ten-foot minimum width for short sections of the bicycle path where necessary to preserve trees, move the bicycle path alignment to avoid hazards, at narrow bridge crossings, or other places as may be appropriate.

When a bicycle path is incorporated into a multi-use trail, the multi-use trail shall be wider than ten (10) feet (e.g., either constructed to a width of twelve feet, or provided with pull-

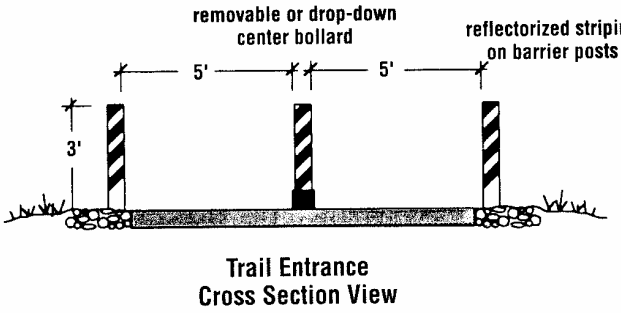
outs or passing areas in frequent places along the length of the multi-use trail) to accommodate passing situations for different users traveling at different speeds.

§ 2-6-5.3 Clearances and Shoulders. Bicycle paths shall have a minimum two-foot wide graded shoulder area on at least one side of the bicycle path. Bicycle paths shall have a minimum three-foot clearance from trees, poles, and other obstructions unless this requirement presents practical difficulty, in which case the County [City] Engineer may approve a deviation if adequate warning signage is provided. Vertical clearance shall be eight (8)-foot minimum with ten (10) feet desirable.

§ 2-6-5.4 Grade. The maximum grade of a bicycle path, except for those paths designated for mountain biking or otherwise provided with notice of difficult grade, shall be five (5) percent. The County [City] Engineer may permit a bicycle path to exceed the maximum five (5) percent grade for short sections of the path, in cases where topographic conditions present practical difficulties in achieving that grade. If difficult grade problems cannot be overcome, measures should include the provision of rest stops or lower grade “switchbacks.”

§ 2-6-5.5 Grade Separation. Where possible, bicycle paths should be constructed or provided at a grade that is separate from the grade of motorized travel (i.e., “grade separated”). A grade separation may be required where a bicycle path crosses a railroad track.

§ 2-6-5.6 Barriers to Unauthorized Motor Vehicle Traffic. Entrances to bicycle paths shall provide a physical barrier as approved by the County [City] Engineer to prevent unauthorized motor vehicles from using the facility. A removable post or other removable barrier may be provided to allow entrance by authorized emergency and maintenance vehicles.



Trail Entrance
Cross Section View

Removable Barrier to Vehicle Access

Reprinted with permission from PAS Report 468, Bicycle Facility Planning by Pinsof, Suzan Anderson, and Terri Musser. Chicago: American Planning Association 1995. p. 19.

§ 2-6-6 DESIGN REQUIREMENTS FOR BICYCLE LANES

The provisions of this section shall apply to bicycle lanes, as defined.

§ 2-6-6.1 Bicycle Lane Minimum Lane Width, Use and Location. Bicycle lanes shall be a minimum of four (4) feet in width on collector and local streets and a minimum of five (5) feet on arterial streets. The horizontal part of a vertical curb shall not be counted in meeting the minimum bicycle path width. Bicycle lanes shall be limited in their use to bicyclists traveling in the same direction as the motor vehicle lane.

Where a bicycle lane is to be provided on a road that also provides for on-street parking (i.e., a parking lane), the bicycle lane shall be placed between the parking lane and the motor vehicle lane, and said bicycle lane shall be a minimum of five (5) feet in width. Parking lanes may be seven (7) feet, excluding the horizontal part of a vertical curb, adjacent to a bike lane in areas with low truck-parking volumes. Bike lanes on one-way streets shall be placed on the right-hand side of the street.

Commentary: The width of a rider on a bicycle is approximately two feet. Considering maneuvering allowances, a bicyclist really only needs three and one-half (3 ½) feet. Hence, if

five-foot or six-foot wide bike paths are a problem and need to be narrowed, they might be reduced to four feet (DeChiara and Koppelman 1984).

§ 2-6-6.2 Pavement Markings. Pavement markings shall be provided for all bicycle lanes, and said pavement markings shall contain word symbols and messages as appropriate and consistent with the Manual on Uniform Traffic Control Devices for Streets and Highways (Federal Highway Administration 1988).

§ 2-6-7 DESIGN REQUIREMENTS FOR BICYCLING ON SHARED ROADWAYS

§ 2-6-7.1 When Appropriate. Bicycling shall not be accommodated on roadways with on-street parking, except on local residential subdivision streets with low traffic volumes as determined by the County [City] Engineer. Where on-street parking is allowed and traffic volumes are moderate or heavy, a bicycle path (i.e., a striped facility) is the appropriate facility type.

§ 2-6-7.2 Minimum width. Bicycle use may be authorized on any roadway without striping and markings, provided that the following standards are met:

(a) Where bicycles are to be accommodated on arterial, collector or local streets with one motor vehicle lane only per direction, and no on-street parking, each travel lane accommodating bicycle use shall be a minimum of sixteen (16) feet in width, excluding the horizontal part of the vertical curb if present.

(b) Where bicycles are to be accommodated on arterial, collector or local streets with two motor vehicle lanes per direction, and no on-street parking, the minimum pavement width for each direction of travel to accommodate bicycle use shall be twenty-eight (28) feet, excluding the horizontal part of the vertical curb if present.

§ 2-6-8 BICYCLE FACILITIES ON RURAL ROAD SHOULDERS

On rural state highways or rural arterial roads (i.e., without curbs and gutters), the shoulders of roads may be paved, designated and maintained for bicycle travel. In such cases, the portion of the shoulder for use as a bicycle path shall be no less than four (4) feet wide. A minimum two-foot shoulder shall be provided in addition to the paved shoulder on all state highways. No

additional shoulder is required when a minimum four-foot paved shoulder is designated for bicycle travel on a rural county roadway.

§ 2-6-9 AUTHORITY OF COUNTY [CITY] ENGINEER

The County [City] Engineer is hereby authorized to review and approve plans for subdivisions and land developments involving bicycle facilities to ensure compliance with the requirements of this Code. The County [City] Engineer is further authorized to prepare and promulgate standards, standard drawings and specifications to more specifically implement the intent of this code.

Commentary: The review and approval of bicycle facilities is primarily the purview of the local government engineer.

COMMENTARY ON BICYCLE FACILITY STANDARDS

Principles for Bicycle Facilities

- Communities can better provide for the needs of bicyclists at reasonable cost by maximizing the usefulness of existing roads through improving the safety of shared roadway space. For instance, paved or landscaped islands and medians not essential for traffic control can be removed and replaced with marked pavement to add several feet of usable width for bicyclists (Pinsof and Musser 1995).
- Studies show that people engaged in long, regional routes will ride a bicycle a couple of miles to a transit stop, or eight times the typical walking distance. If bicycle parking facilities and bike carriers on transit vehicles are provided, good bicycle access to transit can result in a significant increase in transit ridership (Ewing 1997, 46).
- "The local roadway is generally sufficient to accommodate bicycle traffic; however, when special facilities are desired they should be in accordance with AASHTO's Guide for Development of Bicycle Facilities" (1991) (AASHTO Green Book).
- Wide curb lanes (i.e., through-lanes with a width of 14 feet or more) accommodate bicycle use, but striped and signed bike lanes may encourage increased use (Pinsof and Musser 1995).
- Careful attention must be paid to providing safety when bike lanes are established contiguous to on-street parking (i.e., parking lanes). Parking lanes may be narrowed to seven (7) feet adjacent to a bike lane in areas with low truck-parking volumes (Pinsof and Musser 1995).

Cycling Behavior

Bike trips for work, shopping and other utilitarian purposes are usually less than two miles. Bicyclists and pedestrians are much more sensitive than motorists to the length of trips and the environment in which they travel. Pedestrian and bicyclists travel for the experience as well as the trip purpose (Ewing 1997)

Bicyclists should never be directed to use sidewalks. Bicyclists should not be permitted to ride in a direction against the flow of motor vehicle traffic. Cyclists often prefer collector streets over local access streets, since they offer a more continuous and direct route of travel. Many cyclists will still want to use the roadway, even when a separate bicycle path is provided, despite the fact that state law may require that they ride on the bicycle path (Pinsof and Musser 1995).

Types of Bicycle Facilities: Which is Appropriate?

Standards for bicycle networks depend on the primary user. Skilled bicyclists prefer to travel on the street system along with automobiles, but they are a small percentage of all bike riders. Children and casual adult cyclists must be separated from high-speed, high-volume traffic or they will not ride; they outnumber skilled riders 20 - 1 (Ewing 1997, 63-64). These findings suggest that, if resources for bikeway improvements are limited, then planning bicycle paths that will accommodate children and unskilled bicyclists will be more responsive to demands.

Generally, there are four types of bicycle facilities: bicycle paths, bicycle lanes, shared-road facilities and paved shoulders. Bicycle paths are the most accommodating and safest for all bicyclists. Bicycle lanes also tend to encourage increased use. Shared-road facilities may be acceptable and safe in certain circumstances but will probably not encourage bicycle use. Paved shoulders should not be selected as an alternative unless the other facility types cannot be accommodated due to cost considerations or safety concerns. As noted by Pinsof and Musser (1995):

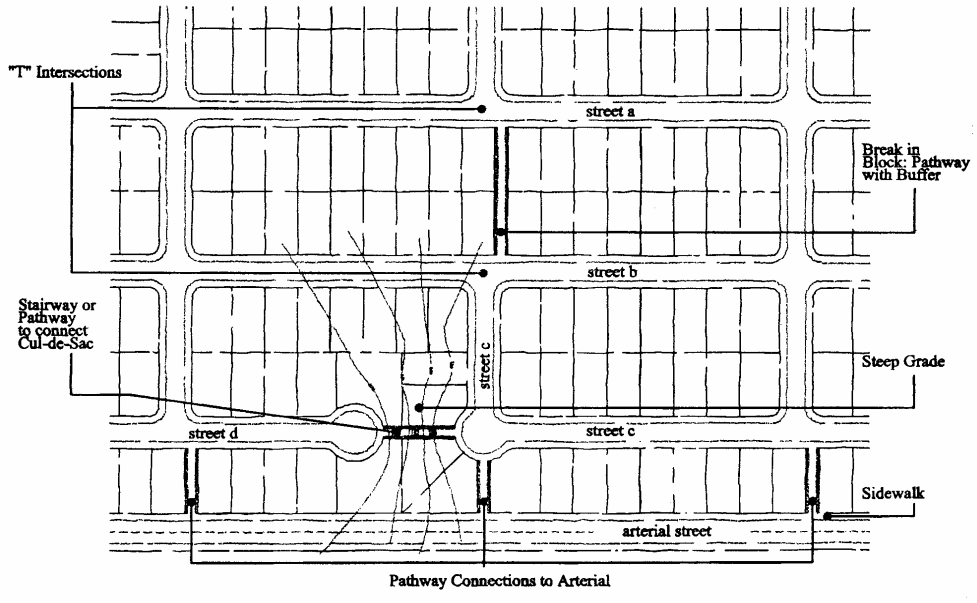
> "For experienced cyclists, wide curb lanes or paved shoulders may be all that is necessary to encourage riding on major arterials. For those cyclists less experienced at riding in traffic, designated bicycle lanes or an alternative on-street route may be the facility of choice."

RETROFITTING CONVENTIONAL SUBURBAN SUBDIVISIONS

It can be a major challenge to try and retrofit conventional suburban subdivision streets for bike paths, better pedestrian access and interconnectivity. There are several potential actions that planners and neighborhood activists can pursue that can help transform standard subdivision streets into more livable, pedestrian friendly, multi-purpose corridors.

Pedestrian Connections Between Cul-De-Sacs

One such effort is to connect two cul-de-sacs that back up to one another with a pedestrian access easement between them. The need for connecting cul-de-sacs should be self-evident; connections provide direct routes among residences and thus reduce the time and inconvenience of pedestrians who have to use the subdivision street network. Without such a connection, they will consider driving rather than walking to a neighbor's house.



Source: OTAK. 1999. Model Development Code and User's Guide for Small Cities. Salem: Oregon Transportation and Growth Management Program.

Local Street Network Planning

As noted previously in this commentary, the conventional hierarchy of streets (i.e., local collectors joining collector streets which empty onto arterial streets) has resulted in limited travel route options and congestion of collectors and arterials in suburban areas. A fully developed suburban residential area is unlikely to have many physical options for installing additional local streets, and those options that may exist are not often easily accepted by existing residents. In cases where some undeveloped land exists among developed subdivisions in the area, planners should consider proposing additions to the system of local roads so that a connected pattern of local streets will form a more accessible local street network.

Retrofitting Existing Rights-of-Way and Local Streets

Many suburban subdivisions have very wide street rights-of-way (e.g., 60 feet) and street pavement widths (e.g., 28-30 feet). Excessive pavement widths can be reduced or modified to include wider (or if they are non-existent, new) sidewalks, planting strips for landscaping and street trees and striping for bicycle lanes.

The opportunities to influence the design and characteristics of streets are greater before they are built. Simply put, changing standards now is more effective than trying to retrofit streets after construction. For this reason, communities that want to improve the quality of street life should focus on adopting standards that promote and encourage, if not require, streets with greater levels of convenience and comfort for pedestrians. Section 2-5 of the Model Code provides alternative street standards for local governments to consider. These specifications can supplement or even replace those standards provided in Section 2-3 of the Model Code.

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§ 2-7 HILLSIDE DEVELOPMENT

Commentary: Robert Olshansky (1996), who has analyzed nearly 200 hillside development ordinances, comments that "there is no 'best' or 'model' set of regulations that can be recommended" for hillside development. Nonetheless, this module is written for local governments with steep slopes and geologically hazardous areas and with concerns that intensive hillside development may permanently change the character of the community. This module provides a recommended set of hillside development regulations that can be used or adapted for use by local governments.

This module should not be confused with Section 2-1-5 of this Model Land Use Management Code, which pertains to "protected mountains." This hillside development module can supplement regulations adopted by local governments with protected mountains per criteria of the state Department of Natural Resources, Environmental Protection Division. These regulations are designed to supplement, rather than replace the following Model Land Use Management Code provisions:

- *§ 2-1-5 Mountain Protection (where applicable).*
- *§ 2-1-7 Soil Erosion and Sedimentation Control.*
- *§ 2-1-8 Grading.*

An alternative to adopting this ordinance, though admittedly inferior in terms of its specifics, is to adopt the environmental impact review module (see § 6-5) of the Model Land Use Management Code.

§ 2-7-1 FINDINGS

Commentary: Detailed "findings" based on the work of Olshansky (1996) are provided here, because they provide numerous rationales for adopting hillside development regulations. Because hillside development regulations can pose substantial restrictions on private property rights, they are more susceptible to "takings" claims (regulatory takings, or the taking of private property without just compensation in violation of the 5th Amendment of the U. S. Constitution). Providing this rationale in the ordinance itself supplies a partial defense of the regulations in the event of a court challenge.

Hillsides are inherently unstable. Changes to slopes — through undermining by humans, flowing rivers, heavy rains or the focusing of stormwater runoff by human-built channels or storm drain outlets — can cause erosion or landsliding. Soil slips, which cause avalanche-type failures and slower-moving earthflows can occur on slopes of 30-33 percent and more. Serious erosion can occur on much shallower slopes. Steeper slopes are less forgiving of construction errors than are shallower slopes. When steeper slopes fail, such failures can have disastrous consequences.

Disturbed surfaces create loose materials which tend to move downhill. The steeper the natural slope, the greater the area is that must be disturbed. Development can result in alteration of land surfaces that can contribute to slope destabilization. Alterations that have the potential for creating unstable slopes include placing fills on top of marginally stable slopes, cutting slopes at too steep an angle or undermining the toe of a slope, redirecting storm runoff in a way that artificially concentrates flows onto portions of the landscape not prepared to receive such flows, removing woody vegetation and adding water by means of hillside septic systems. These factors work together and can cumulatively decrease the stability of slopes and eventually lead to disaster. Landslides and slope failures pose a variety of hazards to human settlements.

Hillside development, if unregulated, can take place at the expense of environmental concerns. Stormwater runoff from slopes is greater in both quantity and velocity than it would be from level ground. Preserving existing vegetation reduces erosion by maintaining roots which increase infiltration and bind soils. Vegetation also reduces the velocity of raindrops and slows the velocity of surface water flow by increasing the roughness of the ground. Constructing hillside roads involves cuts in the upslope side and fills on the down slope side. Such cuts and fills are often much wider than the normal city or county road right-of-way and can be more susceptible to failure.

Hillsides are unique vegetation communities and wildlife habitats. Hillsides in developing areas are often the last remaining natural areas and are the final refuges for many animal species. Development needs to be sensitive to the hillside's function of providing biodiversity.

Hillsides have general aesthetic value to the community and contribute to the community's sense of identity. Prominent peaks and ridges can have significance as identifiable landmarks to area residents. Hillside development, if unregulated, can take place at the expense of aesthetic concerns. Hills are highly visible from surrounding areas. Vegetation clearance and landform grading practices, if unregulated, can upset the natural shape of hills. The bulk, shape, height and color of buildings can contrast with the natural landscape if unregulated and thus intrude on the natural character of the landform. Regulations are needed to ensure that buildings and structures blend in with the natural environment through their shape, materials and colors.

§ 2-7-2 PURPOSE AND INTENT

It is the purpose of this resolution [ordinance] to provide development regulations applicable to hillsides and steep slopes to ensure that such hillside development occurs in a manner that:

(a) Protects the natural and topographic character of hillsides;
(b) Prevents inappropriate development on hillsides, steeply sloping sites and in geologically hazardous areas;
(c) Protects fragile steep slopes and other environmental resources;
(d) Preserves the aesthetic and scenic qualities of hillsides and steep slopes;
(e) Ensures the public health, safety, and general welfare.

The provisions of this resolution [ordinance] are intended to prevent developments that will erode hillsides, result in sedimentation of lower slopes, cause damage from landslides or create potential for damage from landslides, flood downhill properties or result in the severe cutting of trees or the scarring of the landscape. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community. These purposes cannot be met fully with existing development codes, such as soil erosion, grading, tree protection and flood damage prevention. This resolution [ordinance] is considered the minimum necessary to attain these purposes.

These regulations are also intended to encourage the application of principles of civic design, landscape architecture, architecture, planning and civil engineering to preserve the appearance and protect the resources of hillside areas. Guidelines are also provided to encourage imaginative and innovative building techniques and to encourage building designs compatible with natural hillside surroundings.

§ 2-7-3 DEFINITIONS

Area of geologic hazard: An area that poses a risk to public and private property and to natural systems due to its susceptibility to landslides and severe erosion hazards, as shown on a map titled "Areas of Geologic Hazard."

Borehole photography: A method of geological field investigation that consists of photographing the interior surfaces of boreholes and studying the photographs to obtain information on the materials through which the borings have penetrated.

Buildable area: A contiguous area for the placement of a building or structure and which meets the requirements of this resolution [ordinance] and zoning, subdivision and land development regulations of the locality.

Core drilling: A method of geological field investigation that involves the cutting and recovery of cylindrical cores of subsurface materials.

Excavation: The mechanical removal of earth material.

Filling: The act of placing fill material, including the temporary stockpiling of fill material.

Fill material: A deposit of earth or other natural or man-made material placed by artificial means.

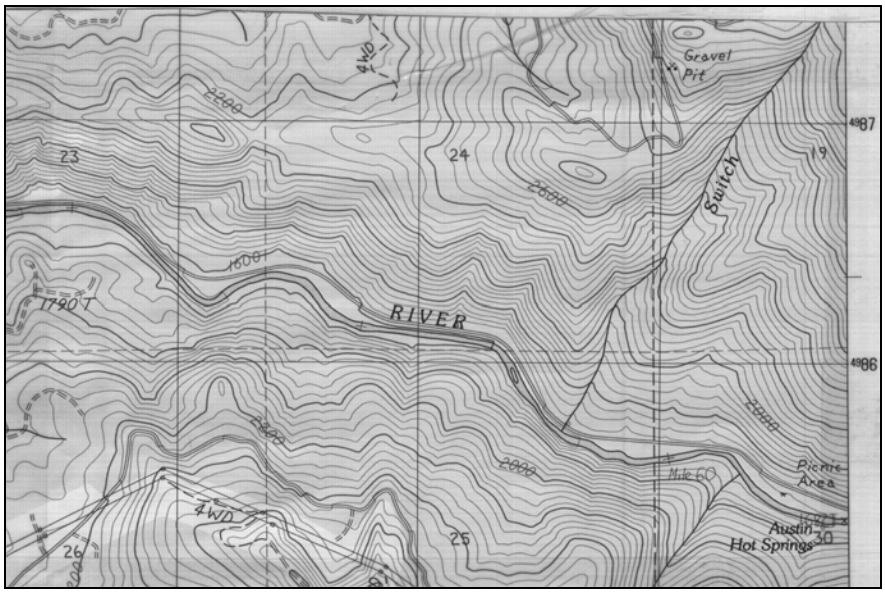
Grading: Any excavating and/or filling of the earth's surface or combination thereof.

Landslide: Abrupt downslope movement of a mass of soil or rock.

Liquefaction: A process in which soil loses strength and behaves like a liquid.

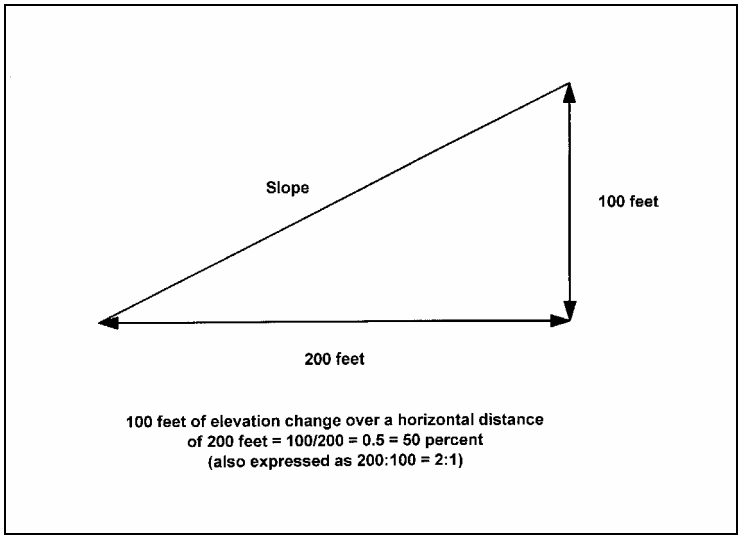
Probings: A method of geological field investigation that ordinarily consists of driving a steel rod into the ground and noting variations in penetration distance.

Quadrangle map: A 1:24,000, 7.5 minute topographic map published by the United States Geological Survey.



U.S.G.S. QUADRANGLE MAP
7.5 MINUTE SERIES (TOPOGRAPHIC)

Slope: An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A fifty (50) percent slope, for example, refers to a 100-foot rise in elevation over a distance of 200 feet. A fifty (50) percent slope is expressed in engineering terms as a 2:1 slope.



SLOPE

Test pit: A method of geological field investigation that involves openings excavated vertically from the ground surface to expose the subsurface materials for examination in place.

§ 2-7-4 APPLICABILITY

This resolution [ordinance] shall apply to any development proposal for property with a natural slope of twenty-five percent (25%) or more. For purposes of determining whether this resolution [ordinance] applies, the natural slope of a given property shall be calculated perpendicular to topographic contours from property line to property line, prior to grading, using quadrangle maps of the United States Geological Survey, other reputable topographic maps of the subject area or, if available, a topographic survey of the subject property.

This resolution [ordinance] shall apply to any development proposal for property within an area of geologic hazard. The approximate location and extent of areas of geologic hazard are shown on the map titled "Areas of Geologic Hazard" which is hereby adopted and made a part of this resolution [ordinance]. This map is based on the best available information, but the boundaries are generalized. Field investigation and analysis by a qualified professional may be required to confirm the existence of a geologically hazardous area.

In the event of any conflict between the location, designation or classification of an area of geologic hazard shown on the maps of geologically hazardous areas, the determination of any field investigation prepared by a qualified professional shall prevail.

Commentary: There are a variety of ways that hillside development regulations can apply. They can apply to:

- *Any site that exceeds a slope of a certain threshold (e.g., 25%).*
- *Areas of concern can be mapped as an overlay district.*
- *Based on hazard areas or some other feature.*
- *On elevation, such as the mountain protection criteria of the State Department of Natural Resources, Environmental Protection Division.*

This Model Code employs two of these four options. It applies to any site with a slope of 25 percent or more and it also applies to areas of geological hazard.

Commentary: Ideally, when hillside safety is the primary concern, hillside development planning begins with areawide geologic mapping to identify areas with potentially unstable slopes. Ordinance authors should consult the county's soil survey for information which can reveal slopes and unstable soils and their locations. Contact the Natural Resources Conservation Service (formerly Soil Conservation Service), the county extension agent or a planner with the regional development center for assistance in obtaining and using the local soil survey.

§ 2-7-5 GENERAL PROVISIONS

§ 2-7-5.1 Compliance. No land to which this resolution [ordinance] applies shall hereafter be subdivided, cleared, developed or used, and no building or structure shall be constructed, placed, extended, converted or structurally altered, except in full compliance with the regulations of this resolution [ordinance].

§ 2-7-5.2 Regulations versus guidelines. This resolution [ordinance] provides both regulations and guidelines. Regulations are identified by use of the term "shall" and compliance is mandatory. Guidelines are identified by use of the term "should" and compliance is not mandatory but is strongly recommended. Substantial inconsistencies with one or more guidelines in a manner that is clearly counter to the purposes of this resolution [ordinance] may provide the basis for denial of a development by the Land Use Officer.

§ 2-7-5.3 Topographic data. Where the Land Use Officer does not have reliable data on existing topography, or when a quadrangle map of the U.S. Geological Survey or other topographic maps which may be available do not provide sufficient detail to administer the requirements of this resolution [ordinance], the Land Use Officer may require, and the development applicant shall provide, a topographic survey of the property proposed to be developed. Said topographic survey, if required, may exclude areas not proposed for development. The topographic survey shall provide contour intervals of no more than five (5) feet unless otherwise approved by the Land Use Officer.

Commentary: This provision is necessary in the event that existing topographic data are insufficient. U.S.G.S. quadrangle maps in steeply sloping areas usually have contour intervals of 20 feet, sometimes more, which may not offer sufficient detail in some instances. Requiring topographic surveys may be the only recourse; however, one should keep in mind the expense to developers and builders involved in producing a site-specific topographic survey. Costs increase substantially as the required contour interval decreases. For example, a survey with two-foot contours would be substantially more expensive than one with ten-foot contours. Given the expense, this Code provision allows areas not proposed for development to be excluded and establishes five-foot intervals as the basis for surveys, with an option for greater intervals, if justified.

§ 2-7-5.4 Subdivision of steep slopes. All new lots created by subdivision shall contain a building envelope with a natural slope of 35 percent or less. Existing parcels without adequate buildable area less than or equal to 35 percent cannot be subdivided but shall be considered buildable for one unit.

Commentary: O.C.G.A. § 15-6-67, "Subdivision Plat Recording," prohibits the recording of maps and plats unless approved by the locality. However, this section of state law reads in part: "Notwithstanding any other provision of this subsection to the contrary, no approval shall be required if no new streets or roads are created or no new utility improvements are required or no new sanitary sewer or approval of a septic tank is required. Any plat of survey containing thereon a certification from the licensed surveyor that the provisions relative to this subsection do not require approval shall entitle said plat to record." This provision appears to preempt local subdivision regulations and ordinances from requiring plat approval when no new road or utility improvement is needed. Such preemption may allow a subdivider to circumvent this requirement and plat lots that do not meet this requirement. However, as soon as the lot is sold and the owner seeks a septic tank permit, such a lot would not be able to be built upon because it would violate the provisions of this local code section.

§ 2-7-6 SOILS AND HYDROLOGY REPORTS

At the time of preliminary plat review for a subdivision, or at the time of an application for a land disturbance permit, the applicant for subdivision or development of property with more than one acre of slopes of 25% or more shall submit the following reports.

§ 2-7-6.1 Soils report. This report shall include conclusions and recommendations regarding the effect of soil conditions on the proposed development. This report shall be prepared by a registered professional engineer, soil scientist, engineering geologist or other qualified professional. The report may use the soil survey prepared and published by the Natural Resources Conservation Service (formerly Soil Conservation Service) as its basis, although site-specific soil tests are strongly recommended.

§ 2-7-6.2 Hydrology report. This report shall include a complete description of the hydrology of the site, conclusions and recommendations regarding the effect of hydrologic conditions on the proposed development, and the capability of the site to be developed. Hydrology reports shall be completed by a professional engineer experienced and knowledgeable in the practice of hydrology or other qualified professional.

§ 2-7-6.3 Action. The Land Use Officer shall review the reports within the context of the regulations and guidelines for development specified in this resolution [ordinance] and may place conditions on the proposed subdivision or development that will result in compliance with said requirements and guidelines.

§ 2-7-7 ENGINEERING GEOLOGY REPORT

§ 2-7-7.1 Engineering geology report required. At the time of preliminary plat review for a subdivision, or at the time of an application for a land disturbance permit, the applicant for subdivision or development of property involving the proposed construction of buildings or structures on property with slopes of 25 percent or more shall submit an engineering geology report prepared by an engineering geologist or other qualified professional.

§ 2-7-7.2 Contents of the report. This report shall include the following:

(a) A complete description of the geology of the site, including site geologic maps, a description of bedrock and subsurface conditions and materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.

(b) Conclusions and recommendations regarding the effect of geologic conditions on the proposed development and the capability of the site to be developed for its intended use or uses.

(c) Specific recommendations for cut and fill slope stability, seepage and drainage control, or other design criteria to mitigate geologic hazards, slope failure and soil erosion.

(d) If deemed necessary by the County [City] Engineer to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration and the results of laboratory tests.

(e) Signature and registration number of the engineering geologist or qualified professional.

(f) A summary of field exploration methods and tests on which the report is based, such as probings, core drilling, borehole photography or test pits (see definitions).

§ 2-7-7.3 Action. The Land Use Officer shall review the report within the context of the regulations and guidelines for development specified in this resolution [ordinance] and may place conditions on the proposed subdivision or development that will result in compliance with said requirements and guidelines.

§ 2-7-8 GENERAL DEVELOPMENT GUIDELINES

(a) All development proposals subject to the requirements of this resolution [ordinance] should be designed to meet generally accepted principles of land use planning, soil mechanics, engineering geology, civil engineering, environmental management, civic design, architecture, landscape architecture, landscape ecology and related disciplines. The land use officer should consider whether or not each development proposal is consistent with these general guidelines and may cite any one or more of them in support of a decision to approve or deny each

development proposal that is subject to the requirements of this resolution [ordinance].

(b) Planning of the development should take into account the topography, soils, geology, hydrology, vegetation and other features of the proposed site.

(c) Areas not well suited for development due to soil characteristics, geology, vegetation, existing plant and animal life or hydrology limitations, should not be developed.

(d) Site designers are encouraged to propose and apply innovative concepts for slope and soil stabilization, grading, landscaping and building placement and design to meet the purposes and objectives of this resolution [ordinance].

§ 2-7-9 GRADING AND LAND DISTURBANCE

§ 2-7-9.1 General grading provisions.

(a) All grading, retaining wall design, drainage and erosion control plans for development subject to this resolution [ordinance] shall be designed by a civil engineer. In cases where geologically hazardous areas exist, such plans shall be prepared by a qualified professional.

(b) No grading, filling, clearing or excavation of any kind in excess of fifty (50) cubic yards shall be initiated until a grading plan is approved and a land disturbance permit is obtained from the Land Use Officer.

(c) Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan or imported from outside the hillside area.

(d) Any approved cut or fill slopes shall be no steeper than two (2) horizontal to one (1) vertical unless it can be shown by the project engineer that steeper slopes are feasible and such showing is accepted by the County [City] Engineer.

(e) Development on the site should be located, designed and oriented so that grading and other site preparation are kept to the minimum needed to serve the intended building or use.

(f) When grading must occur, it should blend with the natural landform as much as possible. Grading to form level pads and building sites is strongly discouraged and when required such grading should be minimized.

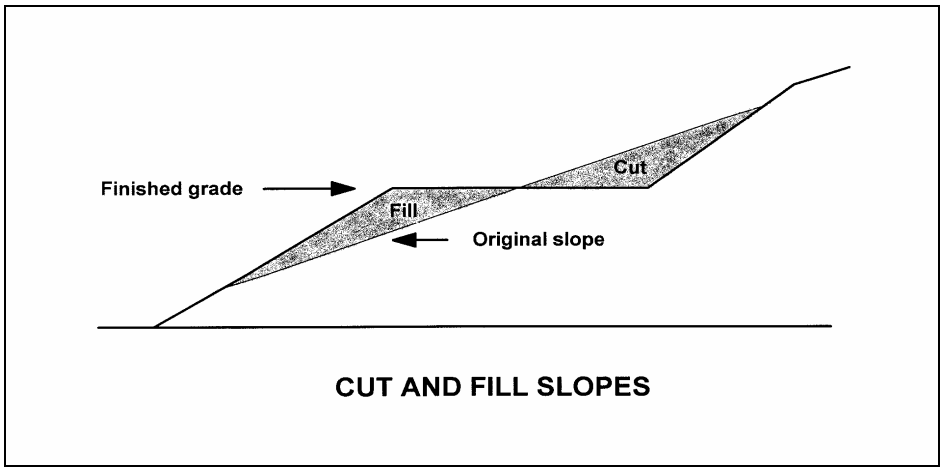
(g) Projects involving more than one use or phase should be phased into workable units in a way that minimizes the amount of soil disturbance at any given point in time.

§ 2-7-9.2 Cut slopes.

(a) No cuts shall be permitted solely for the purpose of obtaining fill, unless specifically approved in the grading plan.

(b) Cut slope angles shall be determined in relationship to the type of materials of which they are composed. Steep-cut slopes shall be retained with stacked rock, engineered retaining walls or a functional equivalent, to control erosion and stabilize the slope.

(c) Cut faces on a terraced section should not exceed a maximum height of five (5) feet. Terrace widths should be a minimum of three (3) feet to allow for the introduction of vegetation for erosion control. The total height of a cut slope should not exceed fifteen (15) feet.



CUT AND FILL SLOPES

§ 2-7-9.3 Fill slopes. Fill slopes should not exceed a total vertical height of twenty (20) feet. The toe of any fill slope area not utilizing an engineered retaining structure should be a minimum of six (6) feet from any property line.

§ 2-7-10 CLEARING AND IMPROVEMENT LIMITS

Development on lands that are subject to this resolution [ordinance] shall meet the requirements shown below:

Average Slope of Lot To Be Developed	Minimum Percent of Lot that Must Remain Undisturbed	Maximum Percent of Lot That May Be Disturbed	Maximum Percent of Lot That May Be Impervious Surface
25-29%	50%	50%	25%
30-34%	60%	40%	20%
35-39%	80%	20%	10%
40% or more	90%	10%	5%

§ 2-7-11 TREES AND VEGETATION

§ 2-7-11.1 Removal. Existing deep-rooted vegetation, including trees, bushes and ground covers, should be removed only in cases where necessary for buildings, roads, driveways, parking and minimal yards. View corridors from the proposed development to surrounding areas may be provided, but the thinning of limbs of individual trees is preferred over tree removal as a means to provide a view corridor.

§ 2-7-11.2 Tree protection areas. All areas required by this resolution [ordinance] to be maintained in their natural state shall be designated as tree protection areas on the site plan. Development shall avoid disturbing designated tree protection areas. Construction site activities, including material storage, shall be located and arranged so as to prevent disturbances of designated tree protection areas.

§ 2-7-11.3 Tree replacement. No trees, other than those located within a building envelope, within a proposed street, driveway or parking area, or within a utility easement, shall be removed except by permit issued by the Land Use Officer. A replacement plan for such trees shall be required to be approved by the Land Use Officer.

§ 2-7-11.4 Tree survey required. When grading or land disturbance is proposed to occur outside of roadways, utility areas, building pads and minimal yard areas, a tree survey at the same scale as the project site plan shall be required. Portions of the lot or project area not proposed to be disturbed by development shall not be required to be included in the tree survey. All tree surveys required by this subsection shall show all trees greater than six (6) inches diameter at breast height (dbh), along with their dbh and species. Groups of trees in close proximity (i.e., those within five feet of each other) may

be designated and shown as a stand of trees, provided that the predominant species, estimated number and average diameter of trees are indicated on the tree survey. The tree survey shall include the name, address and signature of the professional conducting the tree survey.

Commentary: The Model Land Use Management Code provides a basic module for tree protection (see § 3-4). While § 3-4 does not necessarily conflict with this ordinance, § 3-4 does not necessarily accomplish all of the objectives sought here.

§ 2-7-12 REVEGETATION

§ 2-7-12.1 Plan required. Revegetation according to a planting plan approved by the Land Use Officer shall be required for all disturbed areas outside of roadways, driveways, building sites and minimal yard areas.

§ 2-7-12.2 Species selection. Vegetation used to revegetate disturbed areas shall be native species or species similar in resource value as the vegetation removed. Vegetation shall be chosen after consideration of its ability to survive the conditions of soils, climate, temperature, elevation and other natural conditions.

§ 2-7-12.3 Slope stability. When revegetation is required, it should be installed to assist in providing long-term slope stabilization and help reduce the visual impact of any cut slopes.

§ 2-7-12.4 Installation. When revegetation is required, all required revegetation shall be installed prior to the issuance of a certificate of occupancy.

§ 2-7-13 DRAINAGE

(a) Stormwater management facilities shall be provided for all developments subject to this resolution [ordinance]. Storm drain systems shall be designed to capture stormwater from streets, driveways, parking areas, building roofs and other impervious surfaces. Unless otherwise required by the County [City] Engineer, the drainage for the site shall be directed to flow to streets or other approved collector systems.

(b) The overall drainage system shall be completed and made operational at the earliest possible time during construction.

(c) Stormwater facilities shall be designed to divert surface water away from cut faces or sloping surfaces of a fill. When this is not possible, interceptor ditches shall be installed above all cut/fill slopes and the intercepted water conveyed to a stable channel or natural drainage way with adequate capacity. Alternatively, berms at the top of slopes may be used to screen developments, vary the profile and ensure drainage will be directed away from slopes.

(d) Existing natural drainage systems should be utilized, as much as possible, in their natural state. Alterations of major natural drainageways shall be prohibited except for approved road crossings and drainage structures. Natural drainageways shall be riprapped or otherwise stabilized below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion.

(e) Flow-retarding devices and detention ponds shall be used where required to minimize increases in runoff volume and peak flow rate due to development.

§ 2-7-14 EROSION CONTROL

Erosion control measures shall be required for all developments as specified in the county's [city's] soil erosion and sedimentation control ordinance.

Commentary: O.C.G.A. § 12-7-4 requires that the governing authority of each county and each municipality shall adopt a comprehensive ordinance establishing the procedures governing land-disturbing activities which are conducted within their respective boundaries. Such ordinance may be sufficient to address erosion control issues of hillside development. Hence, no specific provisions are included here.

§ 2-7-15 ROADS, DRIVEWAYS AND PARKING AREAS

(a) No new street shall be constructed on lands equal to or greater than 35 percent slope; provided, however, that a portion of a street on land equal to or greater than 35 percent slope may be constructed if it does not exceed a length of 100 feet.

(b) Streets, driveways, buildings, utilities, parking areas and other site disturbances shall be located such that the maximum number of existing trees on the site is preserved.

(c) Roads, driveways and parking areas shall be designed to create the minimum feasible amounts of land coverage and the minimum feasible disturbance of the soil. Variations in road design and road construction specified by the county [city] in its subdivision and land development regulations shall be permitted, as may be approved by the County [City] Engineer, to prevent the dedication of unnecessarily large amounts of land.

(d) Road alignments should follow the natural terrain unless the project engineer can justify additional cuts or fills. Roads, walkways and parking areas should be designed to parallel the natural contours of the site.

(e) One-way streets shall be permitted and encouraged where appropriate for the terrain and where public safety would not be jeopardized. For instance, a two-way street may have the directions of flow split into one-way pairs that differ in elevation, circumnavigate difficult terrain or avoid tree clearance.

(f) Combinations of collective private driveways, shared parking areas and on-street parallel parking bays should be used where possible to minimize land and soil disturbance, minimize impervious surface coverage and achieve excellence of design and aesthetic sensitivity.

Commentary: Local governments that adopt § 2-3, "Improvement Requirements for Subdivisions and Land Developments," of the Model Land Use Management Code may need to further specify the types of variations that will be permitted in hillside developments in order to meet the purposes and intentions of this ordinance. Specifically, the local government may want to add a provision that the requirements of § 2-3-9, "Requirements for Streets," may be varied in hillside areas on a case-by-case basis.

§ 2-7-16 UTILITIES

All utilities shall be placed underground.

§ 2-7-17 BUILDABLE AREA REQUIREMENTS AND GUIDELINES

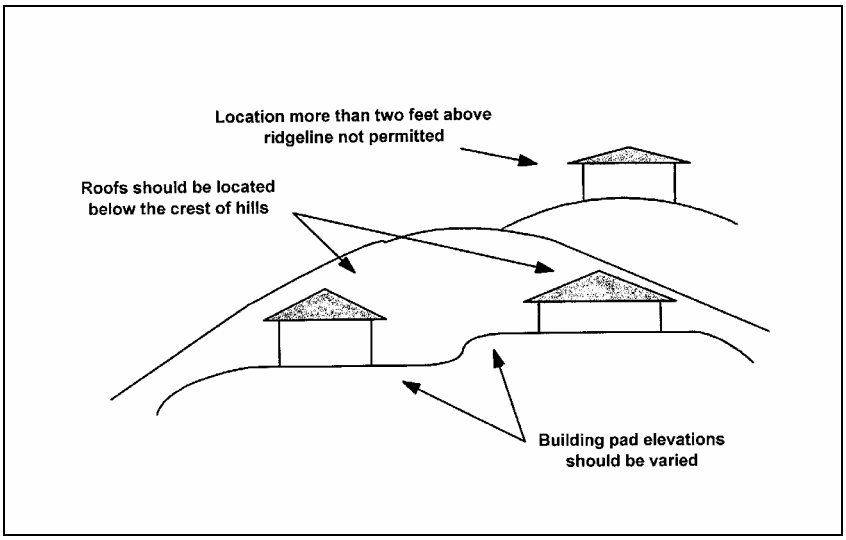
§ 2-7-17.1 Buildable area required. Slopes 35 percent or greater shall be considered unbuildable and no building or development permit shall be issued for a parcel that does not have buildable area with a natural slope of less than 35 percent. All

development shall occur on lands having buildable area with a natural slope of less than 35 percent. Variances may be granted to this requirement as provided in this resolution [ordinance] for good cause shown. For purposes of determining compliance with this section, the natural slope of a given building site shall be calculated perpendicular to topographic contours from edge-of-building-site to edge-of-building-site, prior to grading, using quandrangle maps of the United States Geological Survey, other reputable topographic maps of the subject area or, if available or required by the Land Use Officer, a topographic survey of the subject property.

Commentary: The word "natural" is used, because the intent of this provision is to prohibit development on lands with existing slopes of 35 percent or greater. If the word "natural" is omitted, a parcel with a 40 percent natural slope could conceivably be graded to a 30 percent slope and meet this code provision. Such action would contradict the intent of this code provision.

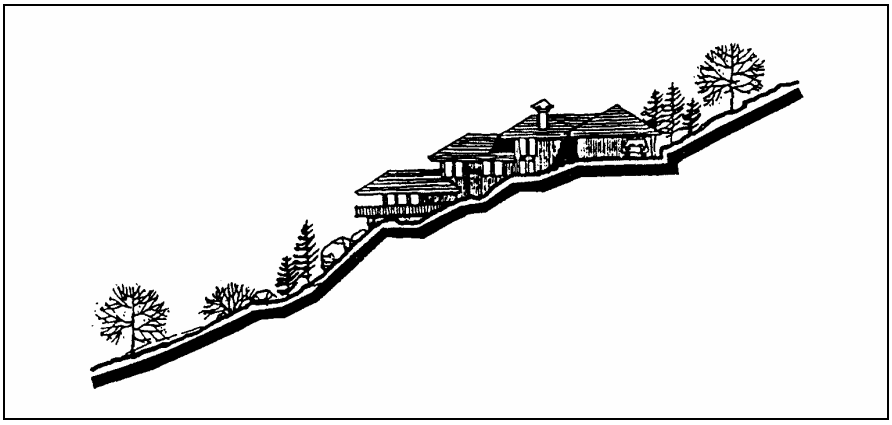
§ 2-7-17.2 Ridgeline restrictions. Building envelopes shall not be allowed on ridgelines.

§ 2-7-17.3 Building pads. Building pads should be of minimum size to accommodate the structure and a minimal amount of yard space. Pads for tennis courts, swimming pools and large lawns are discouraged. Building envelopes should be located and sized to preserve the maximum number of trees on site. Building pads should be varied in elevation above street level to avoid the appearance of monotonous, flat, level pads.



§ 2-7-18 REQUIREMENTS AND GUIDELINES FOR BUILDINGS AND STRUCTURES

§ 2-7-18.1 Foundations. All buildings and structures on lands with slopes of 25 percent or greater shall have foundations which have been designed by a civil engineer or other qualified professional.

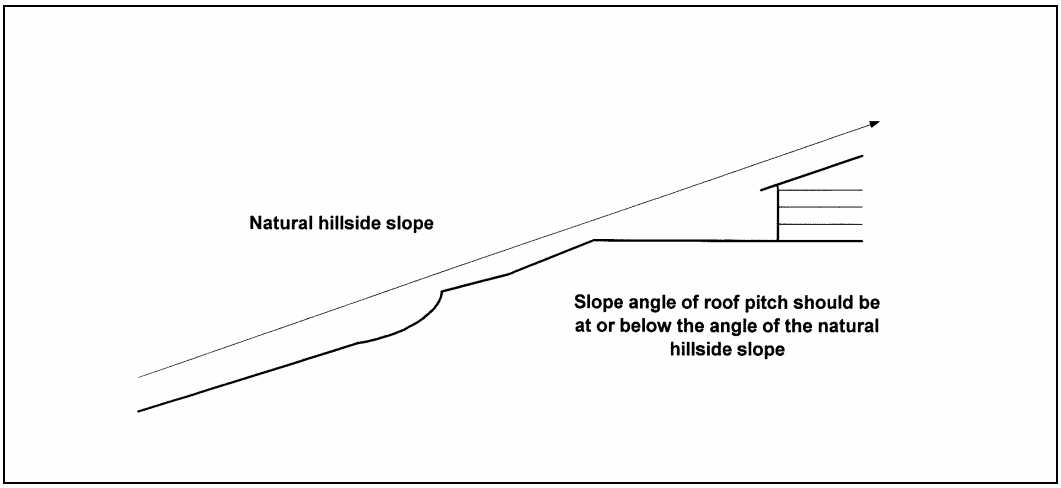


Residence that "Steps Down" the Hillside

Large building pads and footings should be split into more than one (i.e., split-level homes that step down the hillside), where possible, to allow the building pad and structure to more closely follow the existing slope of the land. Building footprint

coverage should be minimized where possible by using multiple-level (two or more story) buildings.

§ 2-7-18.2 Roofs. Buildings and structures with roofs must be designed such that the roofline of the building does not project above a ridgeline more than two (2) feet. Roof forms and roof lines for new structures should be broken into a series of smaller building components to reflect the irregular forms of the surrounding hillside. Long, linear unbroken roof lines are discouraged. Flat roofs are discouraged. The slope angle of roof pitch should be at or below the angle of the natural hillside slope.



§ 2-7-18.3 Height. The height of all buildings and structures shall not exceed 35 feet measured vertically from the natural grade.

§ 2-7-18.4 Setbacks. When appropriate, buildings and structures should be located as close to the street as possible to preserve the natural terrain and to minimize disturbance and the length of driveways.

Commentary: See also the provision of this module for fire protection, which would require setbacks in areas of high fire hazards.

§ 2-7-18.5 Mass. The visible mass of larger buildings and structures should be reduced by utilizing below-grade rooms cut into the natural slope.

§ 2-7-18.6 Location. Buildings and structures should be clustered where possible to reduce disturbance and removal of vegetation.

§ 2-7-18.7 Colors. Exterior colors for new buildings and structures should be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. Exterior colors should be selected from among a color palette approved by the Land Use Officer.

Commentary: It may be difficult for an administrative official such as the Land Use Officer to enforce and interpret a rather vague provision on color, although having an approved color palette helps to reduce vagueness. The appeal procedure contained in this ordinance may also provide adequate relief of a "bad" decision on the part of the Land Use Officer in denying a particular color proposal. Local governments can further reduce the discretion of the Land Use Officer by establishing a review board to make such "subjective" decisions. For instance, § 5-2 establishes a design review board and process that might be adopted and referred to here for this purpose.

§ 2-7-18.8 Designs that reduce clearing and impervious surfaces. Wooden deck areas either on the roof of a garage, or roof of the house, or extending from the house or garage, may be used to reduce the amount of grading and need for yard areas and provide private outdoor spaces. Wooden decks that allow infiltration of stormwater into the ground may be used instead of concrete slabs for patios and, in some cases if structurally sufficient, parking, in order to reduce the amount of impervious surface.

§ 2-7-19 FIRE PROTECTION

Where adequate access for fire fighting equipment or where water supply for fire fighting are not available, in the opinion of the Land Use Officer as may be informed by the Fire Marshal, an approved automatic fire sprinkler system in compliance with the county [city] plumbing code shall be required and installed for all occupied buildings prior to occupancy of said buildings. This provision shall not apply to gazebos, storage sheds or other detached accessory structures not intended for occupancy.

Adjacent to residences or structures to be occupied, in areas of high risk of forest fires as determined by the Fire Marshal, there shall be required a clear zone of no less than

thirty (30) feet on all sides of said residences or structures, or to the property line, whichever is nearer. Within the clear zone, all brush, flammable vegetation or combustible growth shall be removed. This provision shall not apply to single specimens of trees, ornamental shrubbery or similar plants used as ground cover, provided that they do not form a continuous means of rapidly transmitting fire from the native growth to a residence or structure to be occupied.

In areas of high risk of forest fires as determined by the Fire Marshal, the following provisions may be made a condition of development or building permit approval. Roofs shall be covered with noncombustible materials, such as clay or concrete shake or tile. Exterior walls shall be surfaced with noncombustible or fire-resistant materials. Chimneys shall be provided with approved spark arresters.

Commentary: These provisions are intended to address the risk of damage of hillside residences due to forest fires. Local governments should not include this provision unless there is significant risk of forest fires spreading to hillside residences. If adequate fire protection is available, this Code section should not be needed. Consult the fire marshal and/or local fire chief before proceeding with these provisions. Also note that providing a clear zone is also inherently incompatible with other provisions of this Code, which are intended generally to shield hillside residences from view with vegetation.

§ 2-7-20 VARIANCES

Commentary: Most hillside development ordinances recognize that such restrictions may unduly burden property owners. Therefore, this Model Code module provides for a variance procedure to provide remedies for hardships and practical difficulties.

If an applicant asserts that application of this resolution [ordinance] would deny the reasonable use of property, the applicant may apply for a variance. A variance is intended to provide a remedy to address those cases in which the application of this resolution [ordinance] unreasonably restricts all economic use of a parcel of land and the restriction cannot be remedied by other authorized techniques or conditions. A variance to the provisions of this resolution [ordinance] may be granted by the Land Use Officer after consultation with the County [City] Engineer when engineering considerations are involved, if the following circumstances are found to exist:

(a) The development applicant demonstrates there is practical difficulty in meeting the specific requirements of this resolution [ordinance] due to a unique or unusual aspect of the site or proposed use of the site.

(b) The variance is the minimum necessary to alleviate the practical difficulty; and

(c) The variance will result in equal or greater compliance with the purposes of this resolution [ordinance].

Commentary: As an alternative, local governments may choose to have variances determined on a case-by-case basis by a Board of Zoning Appeals. If so, this section should be changed to refer to § 7-2, Appeals and Variances, of the Model Land Use Management Code. Note that the hillside development module has variance criteria that are significantly different from those specified in § 7-2. Yet another alternative is to assign the variance review functions to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

§ 2-7-21 APPEALS

A developer or other party aggrieved by a decision of the Land Use Officer or County [City] Engineer in the administration, interpretation or enforcement of this resolution [ordinance] may appeal said decision as provided in Section § 7-3 of this Code.

Commentary: Local governments adopting this appeal provision must provide the procedures or refer to an appeals procedure. Section 7-3 of the Model Land Use Management Code provides for appeal procedures and this section makes reference to that Code section. Local governments must also adopt § 7-3 in order to make this appeal provision work. Yet another alternative is to assign the variance review functions to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

REFERENCES:

City of Ashland, Oregon, Municipal Code. Hillside Development.

DeChiara, Joseph, and Lee E. Koppelman. 1984. Time-Saver Standards for Site Planning. New York: McGraw-Hill.

Olshansky, Robert B. 1998. Regulation of Hillside Development in the United States. Environmental Management 22, 3: 383.

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Brandes, Donald and Michael Luzier. 1991. Developing Difficult Sites: Solutions for Developers and Builders, p. 48, BuilderBooks and National Association of Home Builders, Washington, DC

Thorow, Charles, William Toner, and Duncan Erley. 1975. Performance Controls for Sensitive Lands: A Practical Guide for Local Administrators. Planning Advisory Service Report Nos. 307, 308. Chicago: American Society of Planning Officials.

§3-1 PERFORMANCE STANDARDS FOR OFF-SITE IMPACTS

CONTENTS

§3-1 PERFORMANCE STANDARDS FOR OFF-SITE IMPACTS

Commentary: This module addresses the impacts of land uses that can adversely effect abutting properties, including lighting (glare), noise, vibration, odor, smoke or particulate matter, and electromagnetic interference. Rural counties and small cities that do not want to adopt a zoning ordinance can adopt this module to regulate the most offensive types of impacts of any given land use. These regulations are "performance standards" in the sense that any land use that can meet these requirements can be located anywhere in a given community.

§3-1-1 OUTDOOR LIGHTING

Commentary: Good outdoor lighting at night benefits everyone. It enhances the community's nighttime character, and helps provide security and safety. New lighting technologies have produced lights that are extremely powerful, and these types of lights may be improperly installed so that they create problems of excessive glare, light trespass (spill light), and higher energy use. Excessive glare can be annoying and may cause safety problems; light trespass reduces everyone's privacy; and higher energy use results in increased costs. There is a need for lighting regulations that recognize the benefits of outdoor lighting and provide clear

guidelines for light fixtures to help maintain and compliment the city's character. Appropriately regulated, and properly installed, outdoor lighting will contribute to the safety and welfare of the residents of the city.

§3-1-1.1 Purpose and Intent. These regulations are intended to reduce the problems created by improperly designed and installed outdoor lighting, eliminate problems of glare, and minimize light trespass, with regulations that avoid unnecessary direct light from shining onto abutting properties or streets.

§3-1-1.2 Definitions. For purposes of this code section, the following terms are defined as follows.

Direct light: Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.
Fixture: The assembly that houses the lamp(s) 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).
Glare: Light emitting from a luminaire with an 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.
Indirect light: Direct light that has been reflected or has scattered off of other surfaces.
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.

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

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.

§3-1-1.3 Applicability. All public and private outdoor lighting installed in the City of _____ shall be in conformance with the requirements established by these regulations.

§3-1-1.4 Exemptions. The following shall be exempt from the provisions of this section.

(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 section.

(e) Security lighting, as defined in this section, including lighting activated by motion sensing devices.

(f) All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.

(g) Public ball fields and tennis courts.

§3-1-1.5 Prohibitions. The following types of outdoor lighting are prohibited: searchlights, for advertising purposes, and the use of laser source light, or any similar high intensity light, for advertising purposes.

§3-1-1.6 Newly Installed Luminaires to Comply. All luminaires, except for those specifically exempted by this section, hereafter installed for outdoor lighting in the City of _____ shall be full cutoff luminaires, as defined by this section, or another luminaire that

does not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

§3-1-1.7 Luminaires Creating Glare to be Redirected. Any luminaire that is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, shall be redirected or its light output controlled as necessary to eliminate such conditions.

§3-1-1.8 Illuminance Levels. Illuminance levels for outdoor lighting fixtures shall comply with the following standards, measured at three feet above the ground or finished grade.

At Property Lines Including Rights-of-Ways	Minimum Footcandles		Maximum **Footcandles**
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
Off-Street Parking Lots	Minimum Footcandles	Average Footcandles	Maximum Footcandles
Residential areas	0.5	2	4
Office-professional areas	1.0	3	6
Commercial areas	2.0	6	12
Light industrial areas	1.0	4	8

Commentary: This section is optional. It provides a less restrictive standard with regard to light trespass. That is, a small amount of measurable light is allowed at property lines, as measured by a light meter. These illumination levels set maximum and in some cases minimum lighting levels. These recommendations are based on the Illuminating Engineering Society of North America and measurements of lighting taken by Jerry Weitz in the City of Roswell in 2000. A light meter can be purchased commercially for as little as $100 and does not require any technical expertise to use. If the local government adopts this subsection on lighting levels, then the following section (which requires lighting plans) should also be adopted.

§3-1-1.9 Lighting Plan Required. A lighting plan shall be required for all non-single-family residential developments of one acre or more in size. When required, lighting plans shall illustrate proposed lighting. The plan shall show areas of night illumination and the amount of

light at various places measured in footcandles. When required, the lighting plan shall consist of either isofootcandles (connecting points of equal light illumination levels, similar to a topographic contour) or a photometric grid with individual spot readings. No lighting plan shall be approved which will result in direct light that exceeds the requirements or is otherwise inconsistent with this section.

Commentary: This optional provision would require lighting plans for virtually all uses except for single- family dwellings. Lighting might be reviewed for all developments if a design review board is established (see Section 5.2 of this model code). Local governments without design review boards might consider limiting the types of land uses that would require a lighting plan to certain uses which exhibit lighting problems and high lighting intensities that result in sky glow. For instance, automobile sales establishments, convenience stores, and commercial recreation facilities that operate at night are the most likely types of uses to warrant review by the local government for excessive lighting practices.

§3-1-2 NOISE

Commentary: The nuisance ordinance (see Section 3-6) contains provisions on unwanted noises. Because rural cities and counties are unlikely to have sound level meters and experience in using them, the nuisance provisions of Section 3-6 may be preferable in such communities. This section provides an empirical basis for measuring noise, in the event that a city or county wants to introduce measurement into its regulations for noise.

Commentary: Noise is not simply a matter of loudness. It actually consists of three criteria that determine its impact: intensity, frequency, and duration. Intensity is measured in decibels (dB) on a logarithmic scale. Note that 70 dB is the point at which noise beings to harm hearing, and 45 dB disturbs sleep. To the ear, each 10dB increase in sound seems twice as loud. Frequency is measured in hertz (HZ) and relates to the number of cycles per sound of a sound wave. People feel sound more intensely when it is concentrated within a narrow frequency band. Duration refers simply to the length of time a sound lasts. To regulate noise, the dBA weighting scale is often recommended (Schwab 1993). The A-weighting scale is weighted toward the higher frequencies to account for human ear responses to sound. Today, there are high-quality instruments to measure sound—a sound-level meter with an octave-band filter is available from less than $200 to well over $1,000 (Schwab 1993).

§3-1-2.1 Definitions.

Noise: Any sound that annoys or disturbs humans or causes or tends to cause an adverse psychological or physiological effect on humans.
Noise disturbance: Any sound that endangers or injures the safety or health of humans or animals, 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 in the American National Standards Institute.

§3-1-2.2 Noise Disturbance Prohibited. No person shall unnecessarily make, continue, or cause to be made or continued any noise disturbance.

§3-1-2.3 Measurement. 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. Noise measurements of a few minutes only will suffice to define any given noise level.

§3-1-2.4 Performance Standards. At no point on the boundary of property shall the sound pressure level of any operation exceed the decibel levels shown below:

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

Commentary: Note that 70 dB is the point at which noise begins to harm hearing. 60 dB is the threshold of stress response, and 45 dB disturbs sleep. To the ear, each 10 dB increase seems twice as loud (Schwab 1993).

§3-1-2.5 Exemptions. The following activities or sources are exempt from these noise standards.

(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) Aircraft operations.
(f) Bells or chimes of churches or other places of worship.

§3-1-3 VIBRATION

No activity or operation shall cause or create vibrations that are recurring and perceptible at any property line without the aid of instruments. Any use that creates intense, earth-shaking vibration, such as are created by heavy drop forges or heavy hydraulic surges, shall be setback a minimum of 500 feet from the boundary of any property containing a residence.

Commentary: There are several examples of local performance standards governing vibration; however, they are complex and too detailed to be included in a model code for small cities and rural counties. They require vibration-measuring equipment that is not likely to be available in rural counties and small cities. The cost of such equipment is approximately $2,000 (Schwab 1993), which makes it unlikely that vibration measuring equipment will be acquired. Vibration standards would probably be needed only in those jurisdictions that have heavy industries located adjacent to residential neighborhoods.

While general standards are frowned upon (given the ability to measure vibrations with appropriate equipment), in this case, a general standard is proposed versus a technical set of regulations which would require definitions of impact vibrations and steady state vibrations, and the establishment of performance standards that are beyond the comprehension of most persons.

§3-1-4 ODORS

The emission of noxious odors in such quantities as to be detectable at any point along property lines is prohibited.

Commentary: Again, local governments have implemented much more sophisticated, empirical standards for odors. There are standards for odor measurement that have been incorporated in local ordinances. Odor can be measured using air sampling and dilution techniques, but they generally require testing in odor-free laboratory environments. Hence, like vibration performance standards, they are too complicated to include in a model code for small cities and rural counties. For this reason, a general provision that does not require measurement is proposed. Most odors dissipate within a short distance, anyway.

§3-1-5 SMOKE OR PARTICULATE MATTER

The emission of smoke or particulate matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare is hereby declared to be a public nuisance and shall be unlawful. Emissions from fireplaces used for noncommercial or recreational purposes shall be exempt from this regulation. Dust and other types of air pollution, borne by the wind from such sources as storage areas, yards, roads, and driveways within lot boundaries, shall be kept to a minimum by appropriate landscaping, paving, oiling, or other acceptable means.

Commentary: Air pollution codes are too complicated to be handled by most code enforcement personnel. Furthermore, equipment involved in measuring air pollution is complex and expensive. Local codes sometimes use what is known as the "Ringelmann Chart" to measure the density of smoke or particulate matter. Fort Collins, Colorado, has a provision that may be a reasonable compromise between non-empirical provisions and those that would require laboratory testing: "No person shall emit or cause to be emitted into the atmosphere from any air contamination source of emission whatsoever any air contaminant which is of such a shade or density as to obscure an observer's vision to a degree in excess of 20 percent opacity" (Schwab 1993).

§3-1-6 ELECTROMAGNETIC INTERFERENCE

Any interference with normal radio, telephone, or television reception across property lines shall be prohibited.

Commentary on Making This Module a "Stand Alone" Ordinance: This module has been written to fit into the larger land use management code. As such, it does not have any notable overlap with any other provisions, except for noise, as noted in the commentary above (see Section 3-1-2). This module can be made into a stand-alone ordinance if selected provisions of Section 2.0, basic provisions for all ordinances, are included.

References:

Illuminating Engineering Society of North America. 1999. Lighting for Exterior Environments: An IESNA Recommended Practice. RP-33-99.

Jaffe, Martin. 1995. Redesigning Industrial Performance Standards. Land Use Law & Zoning Digest, 47, 11: 3-10.

Model Outdoor Lighting Ordinance for Cities and Towns: http://cfa-www.harvard.edu/cfa/ps/nelpag/ordbylaw.html

Schwab, Jim. 1993. Industrial Performance Standards for a New Century. Planning Advisory Service Report No. 444. Chicago: American Planning Association.

§3-2 DEVELOPMENT PERFORMANCE STANDARDS

CONTENTS

Commentary: Section 3-2, Development Performance Standards," does not establish regulations by zoning or use district. Rather, it establishes on-site development controls; most, if not all, of which are frequently found in local zoning ordinances. A particular land use can locate anywhere in a given community (i.e., it is not subject to use restrictions or district regulations), so long as it meets the standards established in this section. This module is suggested as an alternative to conventional zoning and to the land use intensity districts and map module provided in Section 6-1 of this model code. If a local government adopts Section 6-1, then this module would duplicate those provisions in several ways and should, therefore, not be adopted in conjunction with that module. Whereas Section 6-1 is considered to be a "light" version of zoning, this module (3-2) is an even lighter version of land use regulation. Section 3-2 can be adopted as a "stand-alone" ordinance, if provisions for site plan review and a land use permit requirement are added (these appear in other sections of this model code). When used in conjunction with Section 3-1, which regulates various off-site affects of development, a local government should have reasonable controls in place to protect abutting dwellings from the worst aspects of adjacent non-residential development.

§3-2 DEVELOPMENT PERFORMANCE STANDARDS

§3-2-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Development Performance Standards Resolution [Ordinance] of _____ County [City of _____."

§3-2-2 PURPOSE

The intent of this Resolution [Ordinance] is to establish performance standards for development that will ensure the compatibility of development with surrounding land uses, especially single-family dwellings.

§3-2-3 DEFINITIONS

Commentary: Some of the definitions provided in this module are the same as those provided in Section 6-1 of this model code.

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.

Buffer: That portion of a given lot along a side or rear property line, not covered by buildings, pavement, parking, access and service areas, consisting of natural vegetation that forms a screen between incompatible land uses for the purpose of visibly separating uses through distance and to shield and block noise, light, glare, or visual or other nuisances. The width of a buffer is measured from the common property line and extending the developed portion of the common property line. A buffer consists of trees, shrubs, berming, and other natural vegetation which remains undisturbed but which may be replanted where sparsely vegetated, or which must be replanted where disturbed by approved access and utility crossings.

Building, principal: A building in which is conducted the principal use of the lot on which said building is situated.

Building setback line: A line establishing the minimum allowable distance between the main or front wall of a principal building and the street right-of-way line or another building wall and a side or rear property line when measured perpendicularly thereto. Covered porches, whether

enclosed or not, shall be considered as a part of the building and shall not project into any required yards. For purposes of this Resolution [Ordinance], a building setback line and minimum required yard would be considered the same, with regard to principal buildings and uses.

Compatibility: The characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict.

Density: A measure of residential land use intensity that is expressed as the number of dwelling units per gross acre of land.

Development coverage ratio: That area of a given lot covered by principal buildings and uses, accessory buildings and uses, and parking lots and driveways, divided by the total area of the lot on which said buildings, uses, parking lots, and driveways are located.

Dwelling: A building, other than a mobile home, manufactured home, or house trailer, designed, arranged or used for permanent living and/or sleeping quarters.

Dwelling, single-family: A building designed or arranged to be occupied by one family or household only.

Dwelling unit: A building, or portion thereof, designed, arranged and used for living quarters for one or more persons living as a single housekeeping unit with cooking facilities (i.e., a dwelling), but not including units in hotels or other structures designed for transient residence.

Family: An individual; or two or more persons related by blood, marriage, or guardianship, limited to the occupant, his or her spouse, and their parents and children; or a group of not more than five persons, excluding servants, who need not be related by blood, marriage, or guardianship, living together in a dwelling unit as a family or household.

Fence: An enclosure or barrier, composed of wood, masonry, stone, wire, iron, or other materials or combination of materials used as a boundary, means of protection, privacy screening, or confinement, including brick or concrete walls but not including hedges, shrubs, trees, or other natural growth.

Fence, solid: A fence, including entrance and exit gates, where access openings appear, but through which no visual images can be seen.

Governing body: The Board of Commissioners of _____County [Mayor and City Council of the City of _____].

Height of Building: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Grade is defined as the average elevation of the ground on all sides of a building.

Impervious surface: A man-made structure or surface, which prevents the infiltration of storm water into the ground below the structure or surface, including buildings, roads, driveways, parking lots, decks, sidewalks, walkways, swimming pools, patios and any other area covered with concrete or pavement.

Lot: A parcel of land occupied or capable of being occupied by a use, building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same, where the boundaries are delineated by deed or plat lawfully filed in the office of the Clerk of Superior Court.

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Open space ratio: The proportion of a given lot, excluding land occupied by principal buildings and uses, accessory structures and uses, and parking or other impervious surfaces, which remains in an undeveloped state and is specifically designated as open space. For purpose of this Resolution [Ordinance], required buffers shall be considered open space and any parts of required yards that remain in an undeveloped state (i.e., not covered by buildings, structures, and parking or other impervious surfaces) are also considered to be open space. Water bodies such as lakes, ponds, and streams shall also be considered open space.

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

Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot.

Yard, side: An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

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

§3-2-4 APPLICABILITY

This Resolution [Ordinance] shall apply to all unincorporated areas of _____ County [lands within the city limits of the city of _____].

§3-2-5 BUILDING HEIGHT

Commentary: Before zoning regulations existed, some cities established maximum heights. Such height limitations were established for at least two purposes. First, ladder companies (fire brigades) did not have ladders that would reach a height of approximately 35 feet, and persons could not be rescued from any buildings that exceeded such heights. Secondly, taller buildings can block sunlight, cast shadows and alter air movements (when located near other tall buildings, wind tunnels can be created). Building height can also affect aesthetics, compatibility, and perhaps even property values of adjacent uses. For instance, a single-family dwelling may be reduced in enjoyment and value if a tall structure overpowers the residential yard, limiting sunlight, air currents, and invading privacy. The height of a structure can determine how compatible adjacent development will be when viewed and experienced from adjacent neighborhoods.

Height is the first of many performance standards required by this ordinance. It limits density by restricting the number of stories (by virtue of the maximum height limit) that a building can contain.

Commentary: Local zoning ordinances typically establish maximum heights of buildings according to zoning district. This ordinance differs from conventional zoning in that it does not establish regulations by zoning district. This section provides two alternatives: one provides maximum height limits by type of land use rather than by zoning district. The second alternative, which could be used in conjunction with the overall height limitations, provides a performance standard that requires additional setback (distance), as the height of buildings increase.

§3-2-5.1 Generally. No building or structure shall hereafter be erected or altered so as to exceed the height limits established by this Resolution [Ordinance] for different types of buildings and structures. The height limitations of this Resolution [Ordinance] shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, flagpoles, or public utility facilities.

§3-2-5.2 Maximum Height Limitations. The following maximum heights are established for types of land uses.

LAND USE	MAXIMUM HEIGHT (FEET)	LAND USE	MAXIMUM HEIGHT (FEET)
Single-family dwellings, detached, including manufactured homes	35	Industrial and manufacturing uses	100
Offices and institutions	40	Transmission towers	100
Business and commercial uses	50		

§3-2-5.3 Variances to Maximum Height Limitations. The Governing Body may authorize a building or structure to exceed the maximum height limitations for good cause shown, upon application by the owner of the property involved, after a public hearing.

Commentary: This is a minimalist approach with regard to variance procedures. It is included for purposes of maximum simplicity. However, cities and counties are strongly encouraged to adopt detailed provisions for the granting of variances. See in particular Section 7.2 of this model code. If termed a "special use" rather than a variance, an application to exceed the height limitation would need to comply with the state zoning procedures law (O.C.G.A. 36-66).

§3-2-5.4 Height Performance Standard.

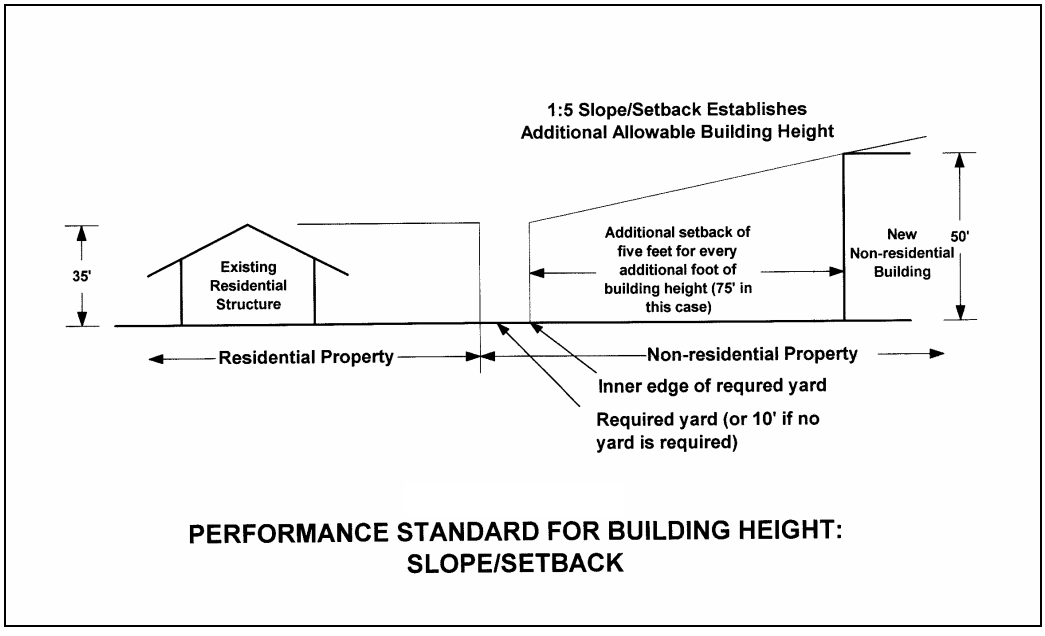
Commentary: This performance standard provides a flexible method of achieving compatibility between single-family homes and commercial or other uses. The height performance standard varies the allowable height of a building based on its distance from any residential structures. The 1:5 slope setback established by this performance standard allows greater height in exchange for greater building setback (i.e., one foot of additional building height is allowed for

every five feet of setback from the dwelling, as measured from the property line abutting the dwelling).

This code subsection provides for additional setback protection from visual impacts of taller buildings. The heights of buildings on properties abutting a single-family dwelling, including a manufactured home, shall be limited according to the provisions of this section. When a non-residential building or structure is proposed to be erected on property that abuts property containing one or more single-family dwellings or manufactured homes, the height of said non-residential building or structure abutting one or more single-family dwellings or manufactured homes shall meet the requirements of this subsection.

The height of a non-residential building or structure on property abutting a single-family dwelling shall not exceed 35 feet; provided, however, that said non-residential building or structure may be increased in height beyond the 35-foot maximum by one foot for every five feet the non-residential building is setback from the minimum required side or rear building setback, or 10 feet from the side or rear property line if no required side or rear yard is established, up to a maximum required setback of 100 feet (see Figure 3-2-5.4.1). The following table provides maximum heights at five-foot increments of building height based on this performance standard:

Figure 3-2-5.4.1



PERFORMANCE STANDARD FOR BUILDING HEIGHT: SLOPE/SETBACK

Height of Building Abutting a Single-family Dwelling or Manufactured Home (Feet)	Additional Building Setback From Required Side or Rear Yard (Or Measured Ten Feet From Property Line If No Required Side or Rear Yard Is Established)
40	25
45	50
50	75
55	100

§3-2-6 YARDS

Commentary: A yard is an open space, unobstructed by principal buildings. A building setback, which is the same as a yard if applied only to principal buildings, is measured from the property line toward the interior of the given lot. Yards, or building setbacks, were originally established in zoning regulations for various purposes. Rear yards were originally established for residential areas to preserve enough space so that home gardens could be planted. Front yards or front building setbacks were originally established to avoid the general public having to pay for buildings located within future right-of-ways when road widenings are required. Side yards or side building setbacks were initially established to avoid the spread of fire among buildings. Building setbacks and yards also serve the purpose of insuring adequate space, avoiding the appearance of overcrowding, and ensuring compatibility among abutting land uses.

Yards are a second performance standard (in addition to height), which limits the density and intensity of building on a given lot. By restricting where a building can be placed on the site, it also effectively limits the bulk of said building.

No building shall hereafter be erected in a manner to have narrower or smaller side yards or rear yards than specified for the use in this Resolution [Ordinance]. No part of a required side yard or rear yard shall be included as a part of the yard required for another building. The application of buffer requirements, as established by this Resolution [Ordinance], supersedes these minimum required yards. (See Table 3-2-6.1).

Table 3-2-6.1

Minimum Required Side and Rear Yards

USE	MINIMUM REQUIRED SIDE YARD (FEET)	MINIMUM REQUIRED REAR YARD (FEET)	MINIMUM REQUIRED YARD WHEN ABUTTING PROPERTY CONTAINING A SINGLE FAMILY DWELLING OR MANUFACTURED HOME	
			SIDE	REAR
Dwelling, single-family detached, including manufactured home	10	20	10	20
Active agricultural operation involving chickens or hogs	25	50	100	150
Guest houses, detached carports, and other accessory residential uses	5	10	5	10
Church, temple, synagogue, or place of worship	10	20	25	40
School; day care center; other institution	10	20	25	40
Duplex	10	20	15	30
Multiple-family residence	10	20	20	35
Institutional residential living facility (nursing, personal care, etc.)	10	20	20	35
Office, conference center, special event facility, etc.	10	20	25	40
Retail commercial or commercial recreation facility enclosed; restaurant; service	None	10 except abutting alleys	35	50
Retail commercial or commercial recreation facility, unenclosed; contractor's establishment; open air business use	None	None	35	50
Industrial or manufacturing establishment, factory or plant; warehouse or wholesale establishment	35	50	50	60
Explosives storage; petroleum bulk storage sites; solid waste facilities (landfills, incinerators, etc.); extraction industries	50	50	100	150

Commentary: This subsection provides a matrix of side and rear yard requirements for several uses. It does not address front yard requirements because front yard requirements are typically based on the need to protect future rights-of-ways from encroachment by buildings. Because a front yard setback would apply from a right-of-way, a building on the opposite side of the street is already separated by, at minimum, the width of the street right-of-way between the two uses. This section does not require front yards, but front landscape strip requirements are recommended in a subsequent section, which provide de-facto front setback requirements.

Commentary: As is the case with any dimensional standard in land use management codes, local governments may wish to allow for variances to these requirements, in cases of practical difficulty or extraordinary hardship. If so, the local government should adopt Section 7.2 of this model code.

§3-2-7 LANDSCAPE STRIPS AND BUFFERS

Commentary: The front landscape strips required by this section provide another limit on intensity of development. By virtue of establishing a front landscape strip, less land is available for building or development. The buffers required by this section do not limit building intensity any further than already restricted by required yards, since the buffers fit within the required yards. This section provides for a waiver of landscape strips in certain instances and a reduction of buffer widths if a solid wooden fence is provided to ensure screening.

§3-2-7.1 Required Landscape Strips. No lot shall hereafter be developed with less than the minimum required landscape strip for the specific use as shown in Table 3-2-7.3.1, when abutting a public or private street.

§3-2-7.2 Waiver of Landscape Strip Requirements. The front landscape strips required by this section may be waived for lots which abut one or more developed properties on the same side of the street and which contain a structure that is setback less than 10 feet from the right-of-way.

§3-2-7.3 Required Buffers. No lot shall hereafter be developed with less than the minimum required buffer along a side or rear property line when abutting property containing a single-family dwelling or manufactured home, for the specific use as shown in Table 3-2-7.3.1.

Table 3-2-7.3.1

Required Landscape Strips and Buffers

USE	MINIMUM REQUIRED FRONT LANDSCAPE STRIP (FEET)	MINIMUM REQUIRED BUFFER WHEN ABUTTING PROPERTY CONTAINING A SINGLE FAMILY DWELLING OR MANUFACTURED HOME	
		SIDE (FEET)	REAR (FEET)
Dwelling, single-family detached, including manufactured home	None	None	None
Active agricultural operation involving chickens or hogs	None	75	100
Guest houses, detached carports, and other accessory residential uses	None	None	None
Church, temple, synagogue, or place of worship	10	15	30
School; day care center; other institution	10	15	30
Duplex	None	None	None
Multiple-family residence	10	10	25
Institutional residential living facility (nursing, personal care, etc.)	10	10	25
Office, conference center, special event facility, etc.	10	15	30
Retail commercial or commercial recreation facility enclosed; restaurant; service	10	25	40
Retail commercial or commercial recreation facility, unenclosed; contractor's establishment; open air business use	20	25	40
Industrial or manufacturing establishment, factory or plant; warehouse or wholesale establishment	30	40	50
Explosives storage; petroleum bulk storage sites; solid waste facilities (landfills, incinerators, etc.); extraction industries	30	75	100

§3-2-7.4 Buffer Specifications. Any buffer required by this section shall be natural vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated, with evergreen trees and/or shrubs to form an opaque screen. The length of any required buffers shall not extend closer than 15 feet to any public right-of-way in order to preserve vision clearance.

§3-2-7.5 Reduction of Buffer. A required buffer may be reduced by as much as 30 percent through the site plan review process if screening is provided by installing a minimum six-foot high solid wooden fence or masonry wall within the required buffer.

§3-2-8 LAND USE INTENSITY RATIOS

Commentary: As noted in prior commentary, the combination of building height, minimum rear and side yards, and front landscape strips already serve to reduce the building intensity on any given site. Local governments need to determine whether these are sufficient, or whether additional controls may be needed. There are numerous additional performance standards that can be employed: maximum building coverage (percent of lot occupied by buildings), minimum open space (minimum percentage of the lot in open space), maximum impervious surface ratios, and maximum floor area ratios, among others. Typically, these types of performance standards differ on the basis of zoning districts or land use intensity districts. Since the premise of this section is that use districts will not be established, it is more challenging to determine how these types of restrictions might apply. As in the case of building height and yards, intensity standards can be applied to particular uses instead of zoning districts.

Commentary on selection of intensity regulations: A minimum open space ratio is relatively easy to administer. It is a simple calculation to add up the required open spaces and divide that area by the total area of the lot. Due to its simplicity, it is incorporated into the standards for various land uses as shown in the table below. Maximum impervious surface ratios are much more difficult to precisely measure at the site plan review stage, because plans rarely accurately depict all such impervious surfaces (including patios, walkways, and so forth in addition to the obvious impervious surfaces such as driveways and buildings). Few communities in Georgia, including those with the more sophisticated sets of land use regulations, require and enforce impervious surface ratios. Because of the difficulty in ensuring accurate measurements, the impervious surface ratio is not recommended for use in rural areas or small cities. In lieu of the impervious surface ratio, a development coverage ratio is applied. A development coverage ratio is the amount of land area covered by buildings and other uses, including parking lots and driveways, but not necessarily all impervious surfaces. Few rural communities are likely to incorporate a floor-area ratio (FAR) in their regulations, for a few reasons. First, the FAR is a tool that is more suitable in urban areas and perhaps suburban areas. Second, by limiting the maximum development coverage and building height, the FAR requirement becomes less

necessary. Additionally, it becomes tricky to establish ratios for floor-area in a manner that they are consistent with the other intensity requirements used. Therefore, a FAR requirement is not recommended nor included in this module. Another land use intensity measure, density, applies to residential land uses and is measured on the basis of the number of units per acre. Density limitations are typically established on the basis of zoning or mapped land use intensity districts. Because this module does not assume districts, it is difficult if not impossible to establish one single maximum density regulation that could apply throughout a community. For example, in rural areas a maximum density of 0.2 or 0.5 units per acre might be appropriate. In suburban areas, prevailing densities are 2-4 units per acre. In urban areas with multiple family developments, densities can range from six or eight units per acre to much higher densities. Hence, a density regulation is not used since use districts are not provided in this set of regulations. However, note that the combination of height, yard, open space ratio, and maximum development coverage ratio will indirectly limit the density of multiple-family residential uses, and that the regulations in Table 3-2-8.1 provide limits of intensity adjacent to single family residences.

Commentary on establishing land use intensity ratios: Table 3-2-8.1 below provides minimum open space ratios and maximum development ratios for specified land uses. The intention of these regulations is to limit non-residential land use intensity when development abuts one or more single-family residences. When a lot does not abut a single-family residence, the open space ratio is lower and the allowable development intensity ratio is higher. This method of regulation is admittedly imprecise, in that any development lot abutting a single-family residence is subjected to significantly lower development intensities. However, regulations that do not establish intensity regulations according to use districts must by definition lose some of the precision that can be accomplished when zoning or mapped land use intensity districts are utilized. It is also worth noting that the combination of open space and allowed development total 90 percent of the site, rather than 100 percent. This is done to allow for those characteristics of the site, such as detention ponds, walkways, etc. that are not included in either the definition of "open space" or "development."

No lot shall hereafter be developed to exceed the maximum development ratio specified in Table 3-2-8.1 for the given type of development to which land is used. No lot shall be developed with less than the minimum open space ratio specified in Table 3-2-8.1 for the given type of development to which land is used.

Table 3-2-8.1

Land Use Intensity Ratios

USE	WHEN NOT ABUTTING PROPERTY CONTAINING A SINGLE-FAMILY DWELLING OR MANUFACTURED HOME		WHEN ABUTTING PROPERTY CONTAINING A SINGLE-FAMILY DWELLING OR MANUFACTURED HOME	
	Mini-mum Open Space Ratio	Maximum Development Coverage Ratio	Mini-mum Open Space Ratio	Maximum Development Coverage Ratio
Dwelling, single-family detached, including manufactured home	None	0.20	None	0.20
Active agricultural operation involving chickens or hogs	None	None	None	None
Church, temple, synagogue, or place of worship	0.30	0.60	0.50	0.40
School; day care center; other institution	0.30	0.60	0.50	0.40
Duplex	None	0.35	None	0.25
Multiple-family residence	0.30	0.60	0.50	0.40
Institutional residential living facility (nursing, personal care, etc.)	0.30	0.60	0.50	0.40
Office, conference center, special event facility, etc.	0.30	0.60	0.50	0.40
Retail commercial or commercial recreation facility enclosed; restaurant; service	0.20	0.70	0.40	0.50
Retail commercial or commercial recreation facility, unenclosed; contractor's establishment; open air business use	0.20	0.70	0.40	0.50
Industrial or manufacturing establishment, factory or plant; warehouse or wholesale establishment	0.15	0.75	0.35	0.55
Explosives storage; petroleum bulk storage sites; solid waste facilities (landfills, incinerators, etc.); extraction industries	0.30	0.60	0.50	0.40

§3-3 HOME BUSINESS USES

CONTENTS

§3-3 HOME BUSINESS USES

Commentary: Zoning ordinances usually provide for small-scale occupations to be conducted within detached single-family dwellings of residential zoning districts. This module uses the concept of home occupation regulation, but applies it without a zoning map. This home business uses ordinance is recommended for small cities without zoning that have residential neighborhoods requiring protection from excessive commercial use of a home in a stable neighborhood. Though perhaps unlikely, anyone could open up virtually any type of commercial shop in the neighborhoods of unzoned, small cities in Georgia. Counties are also likely to have residential subdivisions not protected by zoning regulations that could be offered protection via this Resolution [Ordinance].

Commentary: Legal Counsel notes the possibility that this module could be considered "zoning" as defined in the state's Zoning Procedures Act. The area of single-family subdivisions to which this module applies could arguably create "districts" or "zones" (despite not being shown on a map), wherein home occupations are limited and some occupations are excluded. It is advised that local governments adopting this module do so only in accordance with the Zoning Procedures Act, just to be safe.

§3-3-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Home Business Uses Resolution [Ordinance] of the County [City] of _____."

§3-3-2 PURPOSE AND INTENT

This Resolution [Ordinance] is intended to protect residential neighborhoods, with detached single-family residences on lots containing approximately one acre or less, from use of dwellings for business uses that would detract from the peace and quiet of the neighborhood. It is also intended to allow the use of detached dwellings for limited home business uses, subject to standards that will prevent nuisances and maintain the residential character of the neighborhood.

§3-3-3 APPLICABILITY

This ordinance shall apply only in residential areas as follows:

§3-3-3.1 This Resolution [Ordinance] shall apply only within an area or areas where there is an urban or suburban pattern of land subdivision into lots, each of which has an area of one acre or less or which lots in the subdivision average one acre or less, and which are designed primarily for construction of one detached dwelling unit per lot.

§3-3-3.2 The provisions of this Resolution [Ordinance] shall apply only in the areas of the County [City] where the residence and/or lot in question is bounded on two or more sides by lots containing a detached single-family dwelling or a vacant lot platted as a part of the same subdivision. For purposes of this subsection, "bounded" shall mean contiguous and abutting; or any lot across a road right-of-way within the same or similar land subdivision.

§3-3-4 DEFINITIONS

Home business use: A detached single-family dwelling where a use, occupation or activity is conducted entirely within a dwelling by the residents thereof, or within an accessory building,

which is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof.

§3-3-5 GENERAL PROVISIONS

Home business uses may be established in a dwelling as more specifically provided in this Resolution [Ordinance]. No more than one home business use shall be permitted within any single dwelling or on any one lot. No lot within an area to which this Resolution [Ordinance] applies shall be used in violation of this Resolution [Ordinance]. Uses that do not qualify as a permitted home business use shall be prohibited in the area to which this Resolution [Ordinance] applies. It shall be unlawful to establish or maintain any use or activity that is specifically enumerated as a prohibited use or activity by this Resolution [Ordinance], within the area or areas to which this Resolution [Ordinance] applies.

§3-3-6 LAND USE PERMIT REQUIRED

No use or activity shall commence as a home business within the area or areas to which this Resolution [Ordinance] applies, without first securing a Land Use Permit from the Land Use Officer. Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of a land use permit for said use.

§3-3-7 BUSINESS REGISTRATION REQUIRED

No use or activity shall commence as a home business without first registering said home business with the County [City] clerk. Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration.

Commentary: The local government does not necessarily need to have a business registration process to enforce this ordinance. Some communities choose not to require business licenses, and they save significant administrative costs but possibly also forego revenue. However, some communities with zoning require annual renewal of home business licenses and charge an annual fee for the home occupation permit. This is a local choice.

§3-3-8 USES AND ACTIVITIES PROHIBITED

The following businesses, uses, and activities shall be prohibited in the area or areas to which this Resolution [Ordinance] applies: kennels, stables, veterinarian clinics; medical and dental clinics; restaurants, clubs, and drinking establishments; motor vehicle repair or small engine repair; barber shops and beauty shops; funeral parlors; retail sales of goods not made on the premises; and adult uses. This section shall not be considered inclusive of all the types of businesses, uses, and activities prohibited by this Resolution [Ordinance].

§3-3-9 USE OF DWELLING AND PHYSICAL LIMITATIONS

All activities in connection with the home occupation shall take place within the principal building on the lot, or in an accessory structure. The gross floor area of a dwelling unit devoted to a home business use shall not exceed 1,000 square feet, or 25 percent of the gross floor area of the dwelling and any accessory structure or structures combined, whichever is less. No internal or external alterations inconsistent with the residential use of the building may be permitted.

Commentary: The definition of home business use in this code allows the use of accessory buildings, and this provision permits use of accessory buildings in connection with a home business use. Some home occupation ordinances prohibit use of an accessory building in connection with a home business use. If the local government wants to prohibit use of accessory buildings for home business uses (not recommended), then this provision and the definition of home business use (see § 3-3-4) will need to be modified.

§3-3-10 VEHICLES AND PARKING

It shall be unlawful to routinely park any marked business vehicles on the street or in driveways in public view in connection with the home business use. Only vehicles used primarily as passenger vehicles shall be visible in connection with the conduct of the home business use. No more than one commercial vehicle, not exceeding one-ton capacity and two axles, may be stored on the premises, and it must be parked inside an enclosed garage or otherwise completely concealed from view when not in use.

Incoming vehicles related to the home business use shall at all times be parked off-street within the confines of the residential driveway or other on-site permitted parking.

§3-3-11 EQUIPMENT; NUISANCES

No mechanical equipment shall be installed specifically for use as a home business or used except such as is normally used for domestic purposes. No home business use 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 business uses must exclude the use of machinery or equipment that emits sound (e.g., saws, drills, etc.) that are 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.

§3-3-12 VISITATIONS

No more than two clients or patrons are allowed on the premises at the same time in conjunction with a home business use, except for persons in care at a family day care home, where no more than six clients are allowed. Instruction in music, dance, arts, and crafts, and similar subjects shall be limited to one student at a time. In no event shall visitations or any other vehicle trip associated with said home business use be permitted between the hours of 9:00 p.m. and 6:00 a.m.

§3-3-13 DISPLAY AND STOCK-IN-TRADE

There shall be no display and no visible stock-in-trade on the premises in connection with a home business use. No stock-in-trade shall be sold on the premises except those made on the premises, and such sales shall be infrequent and incidental. Storage devoted to a home business shall be limited in size to no more than 600 square feet of area and shall be counted as part of the total size limits established by this Resolution [Ordinance] for home business uses.

§3-3-14 EMPLOYEES

Only occupants of the dwelling, and one additional full-time employee or two part-time employees, shall be authorized to work on the premises in connection with a home business use.

§3-3-15 SIGNS

There shall be no signs identifying the home business use.

Commentary: Local governments may wish to allow a modification or variance process to provide relief to individuals that might have an undue hardship in meeting these regulations. A special permit or variance process could be provided in cases of unnecessary hardship. See Section 7-2 of this model code.

Commentary: To make this section a stand-alone ordinance, the local government should include the following additional sections of this Model Code:

§2-0-2 EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ENFORCEMENT (Selective Provisions)
§7-2 VARIANCES AND BOARD OF APPEALS (Optional)

References:

Jerry Weitz & Associates, Inc. 2001. Roswell Zoning Ordinance (draft).

Wunder, Charles. 2000. Regulating Home-Based Businesses in the Twenty-First Century. Planning Advisory Service Report No. 499. Chicago: American Planning Association.

§3-4 TREE PROTECTION

CONTENTS

§3-4 TREE PROTECTION

Commentary: Trees provide many benefits for a community, including reducing air and noise pollution, reducing water pollution and flooding, providing natural habitat, preventing erosion, raising property values, and enhancing a community's image. This module provides a tree protection ordinance that protects trees during the development process, requires street trees, and protects public trees.

§3-4-1 PURPOSE AND INTENT

Trees improve air and water quality, reduce soil erosion, reduce noise and glare, provide habitat for desirable wildlife, moderate the climate, and enhance community image and property values. Therefore, it is the intent of these regulations to encourage the protection and provision of trees through sound, responsible land development practices. It is also the intent of these regulations to protect public trees and promote a healthy community forest.

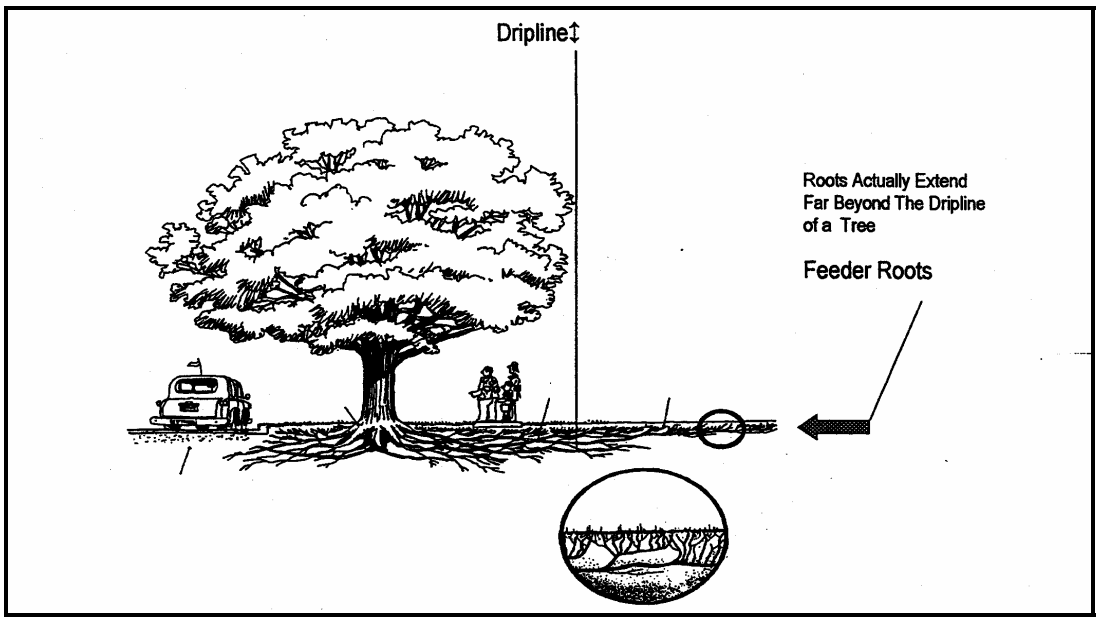
§3-4-2 DEFINITIONS

For the purposes of this Resolution [Ordinance], the following words are defined:

Critical Root Zone - (CRZ): The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a 20-inch diameter tree is 30 feet (see Figure 3-4-2.1).

Figure 3-4-2.1

Example of a Critical Root Zone.



Source: Adapted from Fulton County Tree Preservation Ordinance.

Development activity: Any alteration of the natural environment that requires the approval of a land use permit. Development Activity shall also include the "thinning" or removal of trees from any undeveloped land, including that carried out in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

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

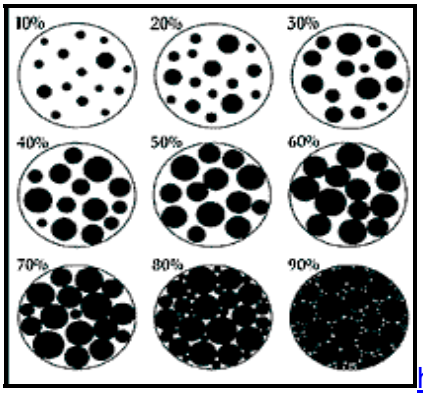
§3-4-3 TREE PROTECTION DURING DEVELOPMENT

§3-4-3.1 Applicability. The terms and provisions of this section shall apply to any activity that requires the issuance of a land use permit, with the exception of lots less than one acre in size. No land use permit shall be issued until it is determined that the proposed development is in conformance with the provisions of this Resolution [Ordinance].

§3-4-3.2 Tree Save Areas. All buffers with existing trees that may be required by this code or provided by a development shall be delineated on plans as tree save areas, unless the applicant clearly demonstrates the need for disturbance.

§3-4-3.3 Canopy Cover Requirements. Developers shall make all reasonable efforts to minimize cutting or clearing of trees and other woody plants in the development of a subdivision or project plan. Residential and mixed use planned developments are required to retain trees on the site to provide a total of 20 percent canopy cover. Commercial and industrial developments are required to protect a total of 15 percent canopy cover on the site. If the site is not currently forested, or only partially forested, the developer shall be required to plant trees to meet this requirement. (See Figure 3-4-3.3.1).

Figure 3-4-3.3.1
Examples of Canopy Cover (%)



http://birds.cornell.edu/bfl/study_site/describe_habitat/BFL_Quick_Reference_Sheet.pdfhttp://birds.cornell.edu/bfl/study_site/describe_habitat/BFL_Quick_Reference_Sheet.pdf

Adapted from: Birds in Forested Landscapes, Cornell Lab of Ornithology
http://birds.cornell.edu/bfl/study_site/describe_habitat/site_char.html#can_cov

Commentary: Communities without access to aerial photographs or other convenient methods of determining canopy cover may elect to formulate the protection requirement as a percentage of the site (e.g., 10 percent of the site must be retained as woodland). Alternatively, communities with more administrative resources may wish to develop more detailed standards and require a tree survey and tree protection plan based on tree densities or other more specific standards (see http://www.isa-arbor.com/tree-ord/ordintro.htm for more information).

§3-4-3.4 Replacement Trees. In developing a site, the first priority under this Resolution [Ordinance] is to protect and preserve trees whenever possible. Where replacement or new trees are necessary to meet the above requirements, the following provisions apply. Replacement trees must be compatible with the site ecologically and in terms of space requirements. The trees must have potential for size and quality comparable to those removed. Furthermore, no one genus may comprise more than 30 percent of the replacement trees.

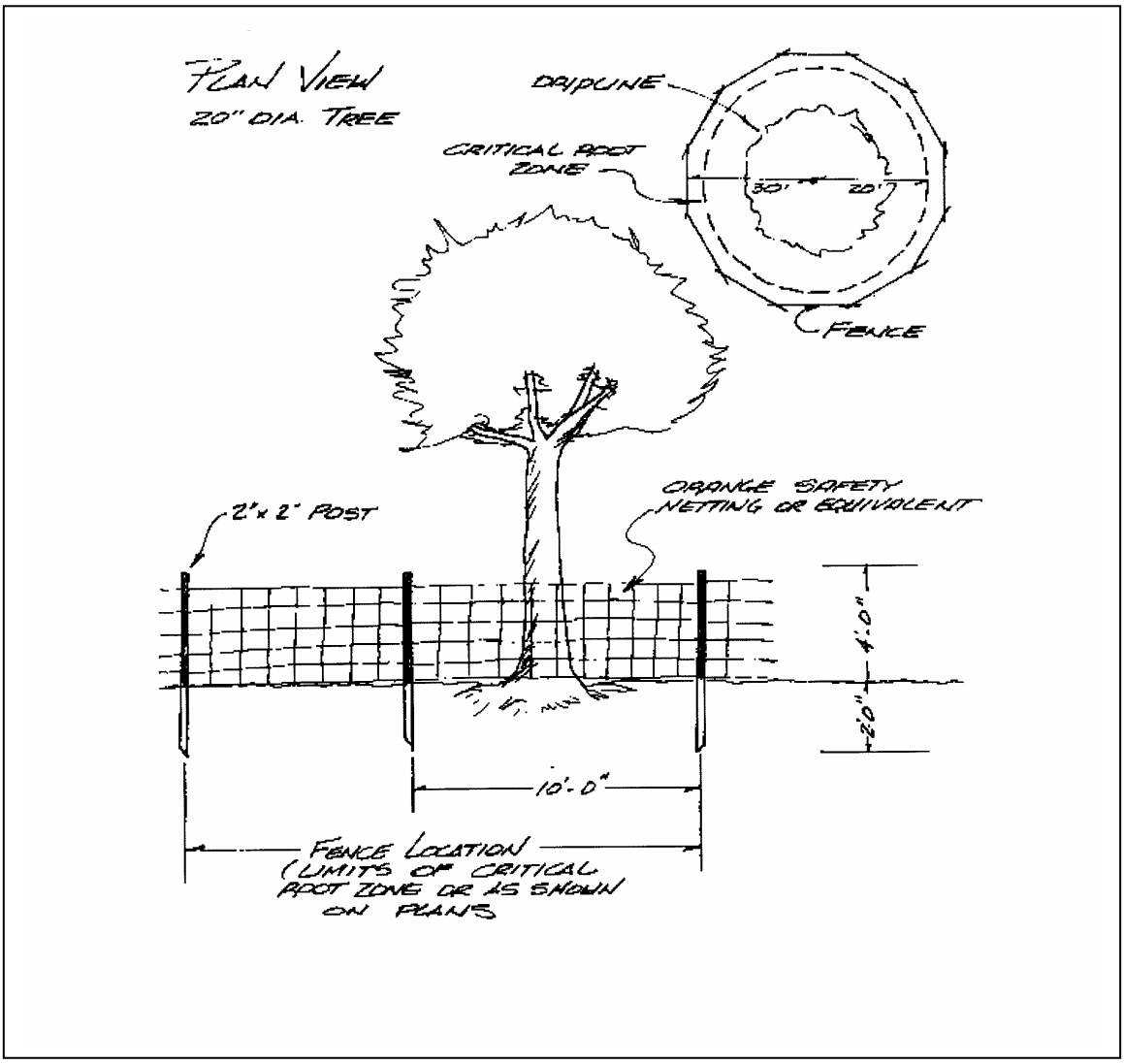
§3-4-3.5 Protection of Trees during Construction. Developers shall make all reasonable efforts to protect retained trees during the construction process, including, but not limited to, the following measures:

(a) Placing protective barriers around trees, and marking such areas with “tree save area” signs;
(b) Not grading, excavating, or locating utilities within the trees’ critical root zone (CRZ);
(c) Maintaining the CRZ as a pervious surface; and,
(d) Maintaining the topsoil in the CRZ and preventing siltation.

Tree protection devices shall be installed prior to the issuance of a land use permit for any clearing and/or grading. Tree protection shall consist of chain link fencing, orange laminated plastic fencing supported by posts, rail fencing, or other equivalent restraining material. Tree protection devices shall remain in functioning condition throughout all phases of development and shall be subject to inspection by the Land Use Officer. (See Figure 3-4-3.5.1).

Figure 3-4-3.5.1

Tree Protection Device Detail.



Commentary: As an alternative or as a supplement to tree protection measures, a community may choose to adopt specimen or "heritage" tree protections, which protect individual trees considered important because of their size, species, age, historic significance, aesthetics, location, ecological importance, or other unique characteristics. For information on developing specimen tree protection measures, see http://www.isa-arbor.com/tree-ord/ordintro.htm

§3-4-4 STREET TREES REQUIRED

The requirements for street tree planting specified in this section are in addition to any requirements for the protection and replacement of trees on private property specified elsewhere in this Resolution [Ordinance]. Street tree planting is required along all new local, collector, and arterial streets and private streets within commercial, industrial, or residential subdivisions. The subdivider, owner of land to be dedicated as a public street, or the developer of a private street shall at the time of preliminary plat approval submit a plan for the provision of street trees along all said roads. It is the intent of this section that the subdivider carefully position street trees on the plan while taking into account future driveway and sidewalk locations if not constructed simultaneously with the construction of the public or private street. Suitable arrangements must be made for either the subdivider/developer or individual builders to install street trees according to a plan approved as a part of preliminary plat approval, prior to dedication or opening of said street. It is preferred that the subdivider/developer install said streets prior to the dedication or opening of the public or private street; however, the Planning Commission may accept an agreement where the responsibility for street tree planting is shifted to the owners or individual builders of the lots to be subdivided. Any such responsibility shall be legally transferred in a form acceptable to the County [City] Attorney. Trees must be planted within the public right-of-way or, if right-of-way width is insufficient to accommodate said street trees, then on private property abutting the public right of way within a street tree easement dedicated to the County [City]. (See Figure 3-4-4.1).

Table 3-4-1

Guidelines to Avoid Conflicts with Infrastructure

MATURE SIZE	LARGE 50–70 FT	MEDIUM 30-40 FT	SMALL 15-20 FT	EVERGREEN 40-50 FT
Minimum Width of Tree Lawn	8 Feet	5 Feet	3 Feet	Yards Only
Spacing Between Trees	60 Feet	40 Feet	20 Feet	30 Feet
Overhead Utilities	Do Not Plant	Okay	Okay	Do Not Plant
Distance from Signs, Utility Poles, Driveways, Fire Hydrants	10 Feet	10 Feet	10 Feet	30 Feet
Distance From Intersection	30 Feet	30 Feet	30 Feet	30 Feet
Distance From Underground Utilities	5 Feet	5 Feet	5 Feet	5 Feet

§3-4-5 PROTECTION OF PUBLIC TREES

§3-4-5.1 Right To Plant. The County [City] shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

§3-4-5.2 Permit Required. No person shall plant, spray, fertilize, prune, or remove, or otherwise disturb any tree on any road right-of-way or property owned by the County [City] without first procuring a permit from the County [City].

§3-4-5.3 Liability. Nothing contained in this section shall be deemed to impose any liability upon the County [City], its officers or employees, nor shall it relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the city.

§3-4-6 PRUNING

§3-4-6.1 Pruning Standards. All tree pruning on public property shall conform to the ANSI A300 standards or other best management practices for tree care operations, as determined by the Land Use Officer.

§3-4-6.2 Tree Topping. It shall be unlawful for any person, or firm to top or severely prune any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Severe pruning seriously affects a tree’s food supply, can scald the newly exposed outer bark, make trees vulnerable to insect invasion, stimulate the regrowth of dense, upright branches below the pruning cut, make the tree more vulnerable to wind damage, disfigure the tree aesthetically, and sometimes result in the death of the tree. Where appropriate, crown reduction by a qualified arborist may be substituted. Trees severely damaged by storms or other causes, or certain

trees under obstructions such as utility wires where other pruning practices are impractical may be exempted from this Resolution [Ordinance] at the determination of the County [City].

Commentary: This module is written as a part of an overall land use management system. However, it can be easily adopted as a stand-alone resolution or ordinance, if the following other provisions are included in the adopted ordinance:

§2-0-1(A), PREAMBLE (although some of it may not be considered necessary)

§2-0-2, EFFECTIVE DATE

§2-0-3, LEGAL STATUS PROVISIONS

§2-0-4, ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

In addition, many small jurisdictions choose to create a Tree Commission or Tree Board to help administer the ordinance and provide policy direction for the urban forest; however, for administrative simplicity, such a provision been excluded. More information about Tree Commissions may be found at: http://www.isa-arbor.com/tree-ord/ordintro.htm

References:

Abbey, Buck, ASLA. Guide to Writing A City Tree Ordinance: Model Tree Ordinances for Louisiana Communities. Louisiana State University. Available on-line at: http://www.design.lsu.edu/greenlaws/modeltree.htm

Bernhardt, E., and T. J. Swiecki. 1991. Guidelines for Developing and Evaluating Tree Ordinances. Sacramento: Urban Forestry Program, California Department of Forestry and Fire Protection. http://www.isa-arbor.com/tree-ord

Bond, Jerry. Sample Brief Tree Ordinance. Adapted from Hoefer, Philip, Himelick Dr. E.B., and David F. Devoto's Municipal Tree Manual, based on a sample ordinance prepared by Jim Nighswonger, 1982. http://www.cce.cornell.edu/monroe/cfep/factsheets/sampleordinance.htm

§3-5 REGULATIONS FOR SPECIFIC USES

CONTENTS

§3-5 REGULATIONS FOR SPECIFIC USES

Commentary: *This module provides regulations for specific uses. It can be adopted in conjunction with Section 6.1, "land use intensity districts and map," or separately, although it has not been written as a "stand alone" ordinance. If it is adopted in conjunction with Section 6.1, one needs to be cognizant of possible conflicting regulations. Many of the regulations contained in this module provide setbacks from existing, adjacent residential uses. Other regulations pertain to the minimum lot size for development, height restrictions, access provisions, and so forth. Each of these regulations is likely to be more restrictive than the requirements specified in Section 6.1 of this model code. The use provisions contained in this module were compiled from several different local zoning ordinances. The uses are presented in alphabetical order. While the regulations for specific uses could conceivably be limitless, the uses included in this module are those that could, without regulation, have a significant impact on adjacent properties.*

§3-5-1 ACCESSORY STRUCTURES AND USES

On any lot where a detached, single-family dwellings or manufactured homes is the principal use, customary residential accessory buildings and uses shall meet the following requirements:

(a) Accessory uses shall be located in a rear yard or side yard.

(b) Accessory buildings shall not exceed 24 feet in height.

(c) Accessory buildings and structures shall be located a minimum of 10 feet from any side or rear property line.

(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 structures must be constructed in conjunction with or after a building permit for the principal building is lawfully approved.

§3-5-2 AGRICULTURAL, FARM, AND ANIMAL STRUCTURES AND USES

Buildings and structures related to agriculture, farming, or the keeping of animals, shall be set back a minimum of 100 feet from any property line. The minimum lot size for the keeping of livestock shall be two acres. One horse may be boarded for non-commercial use on a lot containing one acre or more in area, and an additional one-half acre of area shall be required for each additional horse to be boarded.

§3-5-3 AMPHITHEATERS

(a) The lot area shall be a minimum of 10 acres.

(b) The stage shall be located a minimum of 600 feet from any property containing a residential use.

(c) Vehicular access shall be derived only from an arterial street.

(d) A minimum 100-foot buffer shall be provided along any property line containing a residential use.

(e) A minimum 50-foot buffer shall be provided adjacent to any property line containing a nonresidential use.

(f) A maximum continuous sound level of 60 dBA and a maximum peak sound level of 75 dBA shall be observed adjacent to residential uses.

(g) Security fencing shall be provided adjacent to residential uses.

(h) The hours of operation of the facility shall be limited to 8:00 a.m. to 11:00 p.m. when any property line containing a residential use abuts the facility.

§3-5-4 AUTOMOBILE SALES ESTABLISHMENTS

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 adjacent to a residential use.

§3-5-5 AUTOMOBILE WRECKING YARDS AND JUNKYARDS

Automobile wrecking yards and junkyards shall be completely enclosed by a solid wooden fence having a height of six feet or more if necessary, which shall be installed along all property lines to effectively screen all operations from view.

§3-5-6 CHURCHES, TEMPLES, SYNOGOGUES, AND PLACES OF WORSHIP

Churches and their customary accessory buildings shall be set back a minimum of 50 feet from any side or rear property line, and within the 50-foot setback required along side and rear property lines, a minimum 25-foot wide natural buffer shall be provided.

§3-5-7 COMMUNICATION TOWERS

(a) Towers/accessory structures must be set back a distance equal to the height of the tower from any property containing a residential use.

(b) The tower and/or associated facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.

(c) A minimum 10-foot wide landscape strip shall be required around the facility exterior to any fence or wall unless the land use officer determines that existing plant materials are adequate.

(d) The tower shall comply with applicable state and local statutes and ordinances, including, but not limited to, building and safety codes.

(e) Communication towers/antennas shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration.

§3-5-8 DAY CARE CENTERS

Day care centers and nursery schools shall have at least 150 square feet of outdoor play area and at least 35 square feet of indoor space provided for each child or other person served. A fence with a minimum height of four feet shall enclose the outdoor play area.

§3-5-9 DRIVE-THROUGH FACILITIES

Drive-through facilities shall not be located within 50 feet of public right-of-ways or within 50 feet from any property containing a residential use. Stacking lanes for drive-through facilities must be designed in a manner so that vehicle queuing does not interfere with access driveways, interparcel connections, or maneuverability in and out of off-street parking spaces. Stacking lanes shall be clearly identified through the use of striping, landscaping, and/or signs, and stacking lanes for fast-food establishments shall provide a means for vehicles to escape from the drive-through queuing stream.

§3-5-10 DWELLINGS, SINGLE-FAMILY ATTACHED (TOWNHOUSES)

Fee-simple townhouses shall meet the following requirements:

(a) Each platted lot shall have a minimum of 20 feet of frontage on a private road that meets public street standards of the city.

(b) Zero lot line between units within the same building shall be permitted, subject to applicable fire and building codes.

(c) To avoid a monotonous appearance, no more than six townhouse units shall be included in any one building. Any building containing more than three units with common walls must have the roof of each attached unit distinct from the other through separation or offsets in roof design.

(d) Each townhouse development or phase thereof shall require subdivision plat approval in accordance with Section 2.2 of this code.

Commentary: Item (d) should be deleted if the local government does not have subdivision regulations.

§3-5-11 EXTRACTIVE INDUSTRIES

Any facility engaged in the extraction of earth products, such as sand, soil, gravel, rock, stone, clay, or other mining operations, etc. shall comply with the following:

(a) Permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material.

(b) Roads other than permanent roads shall be treated with dust inhibitors that will reduce the generation from dust from the road surfaces as a result of wind or vehicular action.

(c) The proposed extraction shall not take place within 300 feet of a property containing a dwelling, school, church, hospital, or public building.

(d) Product piles, spoil piles, and other accumulations of by-products shall not be created to a height more than 35 feet above the original contour.

(e) All blasting operations shall occur between sunrise and sunset.

§3-5-12 GOLF DRIVING RANGES

(a) The minimum lot area shall be a 10 acres or one acre per tee, whichever is greater.

(b) Vehicular access shall be derived only from a major collector or higher road classification.

(c) Loudspeakers/paging systems are prohibited when residential uses are located adjacent to driving ranges.

(d) The hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. when any property containing a residential use abuts the facility.

(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.

§3-5-13 HELICOPTER LANDING FACILITIES

Helicopter landing facilities must meet applicable safety standards of the Federal Aviation Administration, state safety standards, and fire suppression and safety standards of the Fire

Marshal. Helicopter landing pads shall be at least 200 feet from any property containing a residential use and at least 50 feet from all other property lines. All take-off, landing, and parking areas for helicopter landing facilities must be surfaced with a dust proof material.

§3-5-14 KENNELS

A minimum one-acre lot size is required. Buildings, animal runs, sun areas, and exercise yards shall be located at least 100 feet from all property lines and 200 feet from any property containing a residential use.

§3-5-15 LANDFILLS

(a) Access from paved streets shall be required.

(b) Access shall not be allowed through any residential subdivision or residential development.

(c) A minimum 100-foot wide buffer is required adjacent to any property line containing a residential use.

(d) A minimum 50-foot wide buffer is required adjacent to public rights-of-way.

(e) A minimum six-foot high solid fence/wall shall be required inside buffers adjacent to any property line containing a residential use.

(f) The owner shall provide the Land Use Officer with a current copy of a Georgia solid waste-handling permit prior to applying for a land disturbance permit.

(g) Vehicles shall be allowed into a landfill site only if waste is covered to prevent blowing of material from the vehicle.

§3-5-16 MINI-WAREHOUSES

(a) The minimum lot size for a mini-warehouse development shall be two acres, and the maximum developed area for a mini-warehouse shall be four acres.

(b) Individual storage units 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) No individual mini-warehouse building shall be more than 200 feet long.

(d) Fencing adjacent to a public right-of-way shall be required in the form of an architecturally finished wall or solid, opaque wooden fence.

(e) Mini-warehouse developments shall not be accessible to the general public (excluding on-site managers) between the hours of 12:00 p.m. (midnight) and 5:00 a.m.

§3-5-17 SHOOTING RANGES

The minimum site size for a skeet or trap shooting range shall be 15 acres. The minimum site size for a rifle range shall be 20 acres. Ranges shall have an earth embankment not less than 25 feet in height and not less than 10 feet in width at the end of the range to serve as a back stop.

§3-5-18 STORAGE OF PETROLEUM PRODUCTS AND EXPLOSIVES

No storage of petroleum products or explosives shall be permitted until the necessary permits and approvals from the Georgia State Fire Marshal and/or federal agency, as may be required, are obtained. No such storage area shall be located within 500 feet of property containing a residential use.

§3-5-19 RACE TRACKS

(a) Race tracks for vehicles shall be located a minimum of 2,000 feet from any property containing a residential use. Race tracks for animals shall be located a minimum of 500 feet from any property containing a residential use.
(b) Vehicular access shall be derived only from an arterial or collector road.
(c) A minimum 75-foot buffer shall be provided adjacent to any property containing a residential use. A minimum 50-foot wide buffer shall be provided adjacent to all other non-residential property lines.
(d) Security fencing shall be provided when the facility abuts residential uses.
(e) A maximum constant sound level of 60 dBA and a maximum peak sound level of 75 dBA shall not be exceeded at adjacent residential property lines.
(f) Hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. when the facility abuts residential uses.

§3-5-20 SERVICE AND FUEL FILLING STATIONS

Service and fuel filling stations, including convenience stores with gasoline pumps, shall have all fuel pumps located at least 25 feet from any public right-of-way or property line. All buildings and appurtenances must be located at least 100 feet from any property containing a residential use. All fuel must be stored underground outside of any public right-of-way. All structures, including storage tanks, shall be placed not less than 30 feet from any property line.

§3-5-21 USES GENERATING TRUCK TRAFFIC

Any use which generates more than 10 truck trips during a peak travel hour or 100 average daily truck trips shall provide deceleration lanes for the use of trucks leaving the road, as approved by the Land Use Officer.

§3-6 PUBLIC NUISANCE

CONTENTS

§3-6 PUBLIC NUISANCE

Commentary: A public nuisance Resolution [Ordinance] can address some of the more annoying and unsafe activities, such as loud noises, stagnant water, abandoned vehicles, accumulation of junk, tall weeds and grass, animals roaming at large, and so forth. What constitutes a public nuisance in one community may be acceptable in another. Furthermore, what may be intolerable in an urban residential neighborhood may be acceptable in a rural area. This module provides a public nuisance Resolution [Ordinance] that makes it unlawful to allow or maintain certain activities and conditions, and calls for the abatement of such unlawful activities or conditions. The County or City is authorized to abate public nuisances that have not been corrected.

§3-6-1 PURPOSES

It is important for a community to appear clean, well kept, and generally clear of public nuisances, eyesores, and unhealthy conditions. The appearance of a community weighs heavily in the decisions of prospective residents and businesses in locating to a particular area. A clean, safe, and well-kept community can stabilize or increase property values, provide a healthy environment, and make citizens proud of the area in which they live. Accordingly, a community needs a set of regulations to keep the area clean, remove unsightly conditions, and prevent unhealthy and unsafe situations from occurring. It is therefore the purpose and intent of this Resolution [Ordinance] to encourage a clean, healthy, and satisfying environment; one free of nuisances, eyesores, and unhealthy, unsafe, or devaluating conditions. To this end, this Resolution

[Ordinance] seeks to regulate and protect the health, safety, welfare, values, and aesthetics of properties.

§3-6-2 DEFINITIONS

For the purposes of this Resolution [Ordinance], the following words are defined:

Abandoned vehicle: A vehicle, including cars, trucks, trailers, boats, motorcycles, recreational vehicles, mobile homes, manufactured homes, or any other similar vehicle, that meets one or more of the following conditions:

(a) Has been left unattended upon a highway, street, or alley or other public property outside a designated parking space for a period of 48 hours; and/or,

(b) Is within public view and is inoperable, partially or wholly dismantled, wrecked, junked, discarded, or of similar condition, or any vehicle without a current license plate if required by law, and is located outside of an enclosed building, garage, carport, wrecked motor vehicle compound, or other place of business designated and lawfully used for the storage of such inoperable vehicles, for a period exceeding 30 days.

Nuisance: Anything that causes hurt, inconvenience, or damage to another, and the fact that the act done may otherwise be lawful, shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person.

§3-6-3 ILLUSTRATIVE EXAMPLES OF NUISANCES

The following conditions, whether on occupied or unoccupied lands, public or private property, are hereby declared to be and constitute a public nuisance and shall be abated; although this section shall not be construed to be limiting with regard to its enumeration of public nuisances.

(a) Weeds or grass allowed to grow to a height greater than 12 inches on the average, or any accumulation of dead weeds, grass, or brush, that may provide safe harborage for rats, mice, snakes and/or other vermin.

(b) Vegetation that obstructs the safe passage or line-of-sight of motorists or pedestrians at an intersection or driveway connection with a public or private street or alley, or along any street or sidewalk.

(c) Dead or dying trees or other vegetation which may cause a hazardous situation if they fall.

(d) Accumulation of rubbish, trash, refuse, junk, construction debris, and other abandoned materials, metals, lumber, or other such items.

(e) The keeping or maintenance of one or more abandoned vehicles in public view or in a manner inconsistent with this Resolution [Ordinance].

(f) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(g) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard.

(h) All noises which may annoy or inhibit others in their enjoyment of the use of their property.

(i) All disagreeable or obnoxious odors or stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires.

(j) The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes, agricultural wastes, industrial wastes, or other substances.

(k) Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of local, state, or federal law.

(l) Any accumulation of stagnant water.

(m) Any method of human excretion disposal which does not conform to the provisions of local ordinances, or state or federal law.

§3-6-4 NUISANCE PROHIBITED

It shall be unlawful for any person, firm, corporation or other entity to cause, permit, maintain, or allow the creation or maintenance of a nuisance, as defined or more specifically described in this Resolution [Ordinance].

§3-6-5 NOTICE TO ABATE

Whenever a nuisance is found to exist within the jurisdiction of the County [City], the Land Use Officer shall give written notice to the owner or occupant of the property upon which such a nuisance exists or upon the person causing or maintaining the nuisance, to abate the nuisance.

§3-6-6 CONTENTS OF NOTICE

The notice to abate a nuisance issued under the provisions of this Resolution [Ordinance] shall contain the following:

(a) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances;
(b) The location of the nuisance, if the nuisance is stationary;
(c) A description of what constitutes the nuisance;
(d) A statement of acts necessary to abate the nuisance; and,
(e) A statement that if the nuisance is not abated as directed, the County will file an action in Magistrate Court [City will file an action in Municipal Court] to abate the nuisance.

Commentary: This module has been written to be consistent with O.C.G.A. §41-2-1. O.C.G.A. §41-2-5 authorizes cities to go to the municipal court and counties to magistrate court for abatement of nuisances. The courts have the power to hold a person in contempt if a nuisance is not abated. In addition, a city or county could make the failure to abate a nuisance a misdemeanor if not done after notice.

§3-6-7 PROVISIONS FOR SPECIFIC NUISANCES

§3-6-7.1 Animals. No domestic animals shall be permitted to run at large within the County [City] limits. It shall be unlawful for any domestic animal to be running at large on the streets or sidewalks of the County [City], unless said domestic pet is under the control of a leash, collar, or chain. It shall be the responsibility of the owner of any domestic animal to provide a proper enclosure or structure secured from the ground to a sufficient height so that the animal cannot escape enclosure. Structures for horses, cows, or other livestock shall not be located closer than 100 feet of any property line. All animal enclosures or yards shall at all times be kept in a clean condition to prevent any condition detrimental to the public health of the County [City].

No more than one horse, cow, or other type of livestock shall be kept per acre of land. No person shall deposit or cause to be deposited, the carcass of any dead animal in the streets, roads, alleys, woods, or waters within the County [City] limits.

§3-6-7.2 Abandoned Vehicles. It shall be unlawful to keep or maintain an abandoned vehicle as defined by this Resolution [Ordinance], and any abandoned vehicle is hereby declared to be a public nuisance and shall be abated as provided in this Resolution [Ordinance].

§3-6-7.3 Trees and Other Vegetation. It shall be unlawful for the owner or occupant of any lot or land lying and abutting on an intersection of two streets or the intersection of a driveway and a street to allow any trees, shrubs, or bushes lying on said lot or land to grow to a height or in a manner which restricts the line of sight, or which threatens safety or restricts passage of motorists or pedestrians within a public right-of-way or sidewalk.

§3-6-7.4 Noise. It shall be unlawful for any person to create or assist in creating, permit, or continue any unreasonably loud, disturbing, or unnecessary noise in the County [City]. Noise of such character, intensity, and duration that is detrimental to the reasonable comfort, health, or life of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises that constitute a public nuisance in violation of this Resolution [Ordinance], and which shall be abated.

(a) The keeping or maintenance of any domestic animal which, due to prolonged or habitual barking, howling, whining, or other noises, causes annoyance to neighboring residents, or interferes with the reasonable use and enjoyment of the premises occupied by such residents, is hereby declared to be a public nuisance and shall be abated as provided in this Resolution [Ordinance].

(b) The sounding of any bell, horn, whistle, mechanical device operated by compressed air, or signal device while not in motion, except as a danger signal, for an unnecessary and unreasonable period of time.

(c) The use of any siren, other than police, fire, or emergency vehicle.

(d) The use or operation of any musical instrument, radio, loud speaker, or sound amplifying device so loudly as to disturb persons in the vicinity thereof.

(e) The erection, excavation, demolition, alteration, or repair of any building or structure in the vicinity of residential dwellings between the hours of 10:00 p.m. and 7:00 a.m., except in

the case of urgent necessity in the interest of public safety, and then, only with a permit from the Land Use Officer.

(f) The creation of excessive noise on any street adjacent to any school, institution of learning, court, or religious congregation while the same are in session, or within 150 feet of a hospital which unreasonably interferes with the working of such institution.

(g) The shouting or crying of peddlers, vendors, or residents which disturbs the peace and quiet of a residential area.

(h) The unnecessary creation of loud or excessive noise in connection with unloading or loading vehicles or merchandise.

(i) The use of any vehicle that is in a state of disrepair as to create loud or unnecessary grinding, rattling, backfiring, or other noise.

Any one of these enumerated nuisances, if violated, would be a misdemeanor and could be prosecuted in the local court just as the violation of any other ordinances.

Commentary on noise regulation: The above nuisance provision on noise overlaps the regulations proposed in the model code in Section 3-1-2. Local governments that adopt that module and this nuisance provision on noise may need to reconcile the two provisions for consistency, or choose between the two provisions.

Commentary on making this Resolution [Ordinance] stand-alone: This module is written as a part of an overall land use management system. However, it can be easily adopted as a stand-alone Resolution [Ordinance], if the following other provisions are included in the adopted Resolution [Ordinance]:

§2-0-1(A) PREAMBLE (although some of it may not be considered necessary)
§2-0-2 EFFECTIVE DATE
§2-0-3 LEGAL STATUS PROVISIONS
§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

References:

Adapted from: Nuisance Abatement Program and Ordinances, Erwin, North Carolina. Washington, DC: International City Management Association, Clearinghouse Report #38415, 1986.

§3-7 SIGNS

CONTENTS

§3-7 SIGNS

Commentary: The objective of this module is to provide a relatively simple set of sign regulations that are content neutral and based entirely on time, place, and manner restrictions.

§3-7-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Sign Resolution [Ordinance] of the County [City] of _____."

§3-7-2 PURPOSE

Sign regulations achieve public safety rationales not achieved by standard building code provisions. Without a sign Resolution [Ordinance], signs can pose a clear danger to public safety. It has long been recognized that sign controls are needed to promote traffic safety and avoid traffic accidents. Signs can distract motorists by impairing visibility. Traffic safety is improved by restricting the size, height, and location of signs. Signs, if unregulated, can confuse motorists by mimicking traffic safety signals and signs.

Unregulated signs may negatively affect the character of communities and the value of buildings. For example, blighted signs and antiquated signs and sign structures (i.e., the pole with a blank structure for a sign face) can contribute to an overall image of blight and a reduction of property values in declining areas if not addressed and removed via sign controls. Unregulated signs can reduce the effectiveness of signs needed to direct the public because they compete with public purpose signs and reduce their visibility and effectiveness. Unregulated signage in special character areas, such as the downtown, would almost assuredly neutralize any public plans and investments to improve streetscapes.

Sign regulation serves the interests of the business community. Unregulated competition among businesses where individual business signs are not adequately visible results in too many signs and a point of diminishing returns. Sign regulations help to maintain the scenic heritage and unique character of the community. Signs substantially influence the appearance of the community, and sign regulation is essential to the community's long-term economic viability. Sign controls improve visual character.

This Resolution [Ordinance] is adopted to serve substantial governmental interests by correcting and avoiding multiple problems that would occur without the regulation of signs and advertising devices. The regulations contained herein are no more extensive than necessary to serve the substantial governmental interests identified in this statement of purposes.

§3-7-3 INTENT

It is not the intent of this Resolution [Ordinance] to apply regulation to signs because of a disagreement with the message that they convey, to foreclose important and distinct mediums of expression for political, religious, or personal messages, or to suggest the County [City] regulate the message content of signs in any manner. It is, however, the intent of this Resolution [Ordinance] to regulate the time, place, and manner of signs in a minimal manner sufficient to meet the public purposes articulated in the purpose section of this Resolution [Ordinance].

§3-7-4 APPLICABILITY

A sign may be erected, placed, established, painted, created, or maintained within the planning jurisdiction of the County [City] only in conformance with the standards, procedures, exemptions, and other requirements of this Resolution [Ordinance].

The effect of this Resolution [Ordinance] as more specifically set forth herein shall:

(a) Establish a permit system to allow a variety of types of signs in commercial, residential and industrial areas that are subject to the standards and the permit procedures of this Resolution [Ordinance].

(b) Allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Resolution [Ordinance], but without a requirement for permits.

(c) Provide for temporary signs without commercial messages in limited circumstances in the public right-of-way.

(d) Prohibit all signs not expressly permitted by this Resolution [Ordinance].

(e) Provide for the enforcement of the provisions of this Resolution [Ordinance].

§3-7-5 DEFINITIONS AND INTERPRETATIONS

Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in this Resolution [Ordinance], shall be given the meanings set forth. All other words and phrases shall be given their common, generally accepted meaning, unless the context clearly requires otherwise.

Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Banner: Any sign of lightweight fabric or similar material that is securely mounted to a pole or a building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Banner (commercial): Any banner containing a commercial message.

Banner (noncommercial): Any banner containing no commercial message.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Building marker: Any sign indicating the name of a building, date, and/or incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Building sign: Any sign attached to any part of a building, as contrasted to a freestanding sign.

Canopy sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable copy sign: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Resolution [Ordinance]. A sign on which the

only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this Resolution [Ordinance].

Commercial message: Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Freestanding sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Incidental sign: A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign: Any sign attached to, in any manner, or made a part of a marquee.

Nonconforming sign: Any sign that does not conform to the requirements of this Resolution [Ordinance].

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Portable sign: A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, but not including trailer signs (as herein defined); signs converted to A- or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of business.

Projecting sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Residential sign: Any sign located in a district for residential uses.

Roof sign: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof. Roof signs, as defined by this Resolution [Ordinance], are not permitted.

Roof sign, integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign setback line: An imaginary line created by this Resolution [Ordinance] to establish an easily determined setback from any public thoroughfares for the placement of certain temporary signs. The sign setback line shall be ten feet from the back of the street curb edge of pavement or stabilized shoulder.

Streamer: A streamer is defined the same as a pennant for purposes of this Resolution [Ordinance]

Suspended sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary sign: Any sign that is used only temporarily and is not permanently mounted.

Trailer sign: Any sign designed to be transported by means of wheels, whether or not the wheels remain attached, located on the ground and permanently attached thereto, and which is usually a two-sided sign and including any single- or double-surface painted or postered panel type sign, or any variation thereof.

Wall sign: Any sign attached parallel to but within six inches of a wall; painted on the wall surface of; or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building, and which displays only one sign surface.

Window sign: Any sign, pictures, symbol, or combination, thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

§3-7-6 MASTER OR COMMON SIGNAGE PLAN REQUIRED

No permit shall be issued for an individual sign requiring a permit unless and until a Master Signage Plan or a Common Signage Plan for the lot on which the sign will be erected has been submitted to and approved by the County [City] as conforming with this section.

§3-7-6.1 Master Signage Plan. For any lot on which the owner proposes to erect one or more signs requiring a permit, unless such lot is included in a Common Signage Plan, the owner shall submit to the County [City], a Master Signage Plan containing the following:

(a) An accurate plot plan of the lot at such scale as the County [City] may reasonably require.

(b) Location of buildings, parking lots, driveways, and landscaped areas on such lot.

(c) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs, and the number of freestanding signs allowed on the lot(s) included in the plan under this Resolution [Ordinance].

(d) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs and signs not regulated by this Resolution [Ordinance] need not be shown.

(e) The name of the owner of the property and, if different from the owner, the name of the applicant.

§3-7-6.2 Common Signage Plan. If the owners of two or more contiguous (disregarding intervening streets and alleys) lots, or the owner of a single lot with more than one building (not including any accessory building) file with the County [City] for such lots a Common Signage Plan conforming with the provisions of this section, a 25 percent increase in the maximum total sign area shall be allowed for each included lot. This bonus may be allocated within each lot as the owner(s) elects.

§3-7-6.3 Provisions of Common Signage Plan. The Common Signage Plan shall contain all of the information required for a Master Signage Plan and shall also specify standards for consistency among all signs on the lots affected by the plan with regard to:

(a) Color Scheme;

(b) Lighting;

(c) Location of Each Sign on the Buildings;

(d) Material; and,

(e) Sign Proportions.

§3-7-6.4 Limit on Freestanding Signs Under Common Signage Plan. The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. In any instance where the properties included within a Common Signage Plan may contain an intervening street, the number of freestanding signs shall be limited to one for each street and such properties shall be treated as a unified lot. The maximum height of the freestanding signs permitted shall be 30 square feet.

§3-7-6.5 Other Provisions of Master or Common Signage Plans. The Master or Common Signage Plan may contain such other restrictions as the owner(s) of the lots may reasonably determine.

§3-7-6.6 Consent. The Master or Common Signage Plan shall be signed by all owners or their authorized agents in such form as the County [City] shall require.

§3-7-6.7 Joint Processing. A Master or Common Signage Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the County [City] for the proposed development and shall be processed simultaneously with such other plan.

§3-7-6.8 Amendment. A Master or Common Signage Plan may be amended by filing a new Master or Common Signage Plan that conforms with all requirements of the Resolution [Ordinance] then in effect. In general, amendments shall be reviewed and acted upon by the County [City]; provided, however, that any amendment of a common signage plan which affects those items governed by Subsection 3-7-6.3 (Provisions of Common Signage Plan) of this section, shall be acted upon in a like procedure to the original plan.

§3-7-6.9 Existing Signs Not Conforming to Master or Common Signage Plan. When a Master or Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance all signs not conforming to the proposed amendment plan or to the requirements of this Resolution [Ordinance] in effect on the date of submission.

§3-7-6.10 Binding Effect. After approval of a Master or Common Signage Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan and such plan may be enforced in the same way as any provision of this Resolution [Ordinance]. In case of any conflict between the provisions of such plan and any other provision of this Resolution [Ordinance], the Resolution [Ordinance] shall control.

§3-7-7 PERMITTING PROCEDURES

§3-7-7.1 Permits Required. If a sign requiring a permit under any provision of this Resolution [Ordinance] is to be placed constructed, erected, or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of this section. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with Subsection 3-7-7.4, (Permits to Remain Current and in Force) of this section.

No sign shall be erected in the public right-of-way, except in accordance with Section 3-7-14 and the permit requirements of Subsection 3-7-7.2.

No sign permit of any kind shall be issued for an existing or proposed sign, unless such sign is consistent with the requirements of this Resolution [Ordinance], including those protecting existing signs, in every respect and with the Master Signage Plan or Common Signage Plan in effect for the property.

§3-7-7.2 Application and Review Procedures. The following procedures shall govern the application for, and issuance of, all sign permits under this Resolution [Ordinance], and the submission and review of Common Signage Plans and Master Signage Plans.

§3-7-7.2.1 Application. All applications for sign permits of any kind and for approval of a Master or Common Signage Plan shall be submitted to the County [City] on an application form or in accordance with the application specifications established by the County [City].

§3-7-7.2.2 Fees. Each application for a sign permit or for approval of a Master or Common Signage Plan shall be accompanied by the applicable fees, which shall be established by the County [City] from time to time by Resolution [Ordinance].

§3-7-7.2.3 Completeness. Within five working days of receiving an application for a sign permit or for a Master or Common Signage Plan, the County [City] shall review it for completeness. If the County [City] finds that it is complete, the application shall then be processed. If the application is incomplete, the County [City] shall provide to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this Resolution [Ordinance].

§3-7-7.2.4 Action on Plan. On any application for approval of a Master Signage Plan or Common Signage Plan, the County [City] shall take action on one of the following dates:

(a) Fourteen days after the submission of a complete application if the application is for signs for existing buildings; or,

(b) On the date of final action on any related application for a building permit, site plan, or development plan for signs involving new construction.

§3-7-7.2.5 Failure to Act on Plan. Failure by the County [City] to take action within the time periods indicated above shall not be construed so as to relieve the applicant from compliance with all provisions of this article on or before such date, the County [City] shall either:

(a) Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with the requirements of this Resolution [Ordinance]; or,

(b) Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in any way to conform with the requirements of this Resolution [Ordinance]. In case of a rejection, the County [City] /County shall specify in the rejection the

section or sections of the Resolution [Ordinance] with which the plan is inconsistent.

Commentary: This provision should be included in all jurisdictions, even if they have not adopted the Standard Building Code, since it is adopted by the state and enforceable by the state. For communities that have not adopted building codes, a suitable alternative might be to require a land use permit for signs.

§3-7-7.3 Permits to Construct or Modify Signs. It shall be unlawful for any person to post, display, substantially change, or erect a sign in the County [City] without first having obtained a building permit, if required by the Standard Building Code as adopted by the County [City], for said sign. The applicant for a building permit shall submit application materials as specified by the Building Inspector, including a sketch or print drawn to scale showing pertinent information, such as wind pressure requirements and display materials, in accordance with the Standard Building Code. Such permits shall be issued only in accordance with the following requirements and procedures.

§3-7-7.3.1 Permit for New Sign or for Sign Modification. An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimension, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master Signage Plan or Common Signage Plan then in effect for the lot. One application and permit may include multiple signs on the same lot.

§3-7-7.3.2 Inspection. The County [City] shall inspect each lot for which a permit for a new sign or for modification of an existing sign is issued on or before six months from the date of issuance of such permit. If the construction is not substantially complete within six months from the date of issuance, the permit shall lapse and become void. If the construction is complete and in full compliance with this Resolution [Ordinance] and electrical codes, the County [City] shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit, by number or other reference. If the construction is substantially complete, but not in full compliance with this Resolution [Ordinance] and applicable codes, the County [City] shall give the owner or applicant notice of the deficiencies and shall allow an additional 30

days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse and become void. If the construction is completed, the County [City] shall affix to the premises the permanent symbol as described above.

§3-7-7.4 Permits to Remain Current and in Force. The owner of a lot containing signs requiring a permit under this Resolution [Ordinance] shall, at all times, maintain in force a sign permit for such property. Sign permits shall be issued for individual lots, notwithstanding, that a particular lot may be included with other lots in a Common Signage Plan.

§3-7-7.4.1 Initial Sign Permit. The County [City] covering the completed sign installation, construction, or modification shall issue an initial sign permit.

§3-7-7.4.2 Assignment of Sign Permits. A current and valid sign permit shall be freely assigned or transferred to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the County [City] may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

§3-7-8 TEMPORARY PERMITS

Permits for temporary signs shall be subject to the following requirements.

§3-7-8.1 Temporary Sign Permits. Temporary signs shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements.

(a) Permit Exception. No permit is required for temporary political signs and banners in accordance with this Resolution [Ordinance].

(b) Sign Setback. A temporary sign shall not be erected, placed or maintained on the thoroughfare side of the sign setback line.

(c) Traffic Hazard, Prohibited. In addition to other setback requirements, temporary signs shall be located such that at any intersection ingress/egress point the traffic visibility shall not be impaired.

(d) Size. Temporary signs shall not exceed 16 square feet, with the exception of a sign located at a construction project. If the temporary sign is located on property that faces more than one street, one sign may be allowed for each frontage. Each such sign shall be located no closer than five feet to a street right-of-way.

Although a temporary sign, a sign located at a construction project may not exceed 32 square feet. Such sign may be displayed from the beginning of the construction of the project, through the completion of the project.

§3-7-8.2 Banners. Temporary permits for banners shall be allowed upon the issuance of a temporary sign permit, subject to the following requirements.

(a) Size and Number. Temporary banners shall not exceed 40 square feet, and no more than one banner shall be permitted for each business or other tenant occupying any lot.

(b) Installation. A banner shall be securely attached to a building or other permanent structure on the lot.

(c) In Lieu of Permanent Signage. A banner may be used in lieu of permanent signage for a period not to exceed six months. All criteria concerning area and dimensions for permanent signage shall apply.

§3-7-8.3 Pennants and Streamers. Temporary permits for pennants and streamers shall be allowed upon the issuance of a temporary sign permit, subject to the following requirement.

(a) Installation. Pennants and/or streamers shall be securely attached to a building or other permanent structure on the lot.

§3-7-8.4 Inflatable Signs and Tethered Balloons. Temporary permits for inflatable signs and tethered balloons shall be allowed upon the issuance of a temporary sign permit, subject to the following requirement.

(a) Installation. An inflatable sign or tethered balloon shall be securely attached and/or anchored so as to remain safe and secure during the term of its use.

§3-7-9 SIGNS EXEMPT FROM REGULATION UNDER THIS RESOLUTION [ORDINANCE]

The following signs shall be exempt from regulation under this Resolution [Ordinance].

(a) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

(b) Any sign that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located.

(c) Works of art that do not include a commercial message.

(d) Holiday signs with no commercial message.

(e) Private street name and traffic control signs on private property, such as “Stop”, “Yield” and similar signs, the face of which meet County [City] transportation standards, and of which contain no commercial message.

(f) "No Trespassing", "No Hunting", "No Fishing", "No Loitering", and like signs not exceeding one square foot in area.

(g) Incidental signs as defined by this article.

(g) Identification signs for home occupations, provided that only one unlighted sign, not exceeding four square feet in area, may be permitted on any lot.

(h) A temporary sign placed in a residential district.

§3-7-10 MAXIMUM HEIGHT OF SIGNS

The maximum height of any ground sign regulated by this Resolution [Ordinance] shall be 30 feet. No attached wall sign, except those exempted by this Resolution [Ordinance], shall exceed the height of the tallest building on the lot.

§3-7-11 MINIMUM SETBACK FROM RIGHT-OF-WAY

No sign regulated by this Resolution [Ordinance] shall be placed or erected closer than two feet of a city, county, state, or federal road right-of-way.

§3-7-12 FREESTANDING SIGNS

The provisions of this section shall govern the number, location, and spacing of freestanding signs.

§3-7-12.1 Residential and Office Subdivision. Signs located in residential district and office subdivisions shall be located at the primary entrance(s) to the development/subdivision or at the beginning of the street upon which the development/subdivision connects directly to an arterial or collector street as shown on the Major Thoroughfare Plan.

§3-7-12.2 Other Freestanding Signs. Freestanding signs other than those regulated by Subpart 1 (above) of this section, shall be limited to one per entrance, but no more than a total of two such signs for the development, subject to the spacing distance limitations noted in Subpart 3 (below), of this section.

§3-7-12.3 Spacing Limitations of Freestanding Signs. Freestanding signs on any premises shall be spaced at minimum intervals of 200 feet along each public way that views the premises. In the event that less than 200 feet of any premises is visible from any one public way, only one sign shall be permitted along that public way.

§3-7-13 COMPUTATIONS

The following principles shall control the computation of sign area and sign height.

§3-7-13.1 Computation of Area of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall.

§3-7-13.2 Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.

§3-7-13.3 Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest point of the sign face. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade of the sign is lower than the grade of the adjacent public street, normal grade shall be construed to be the grade of the adjacent public street. "Adjacent public street" shall mean the street providing approved vehicle access to the property and which does or would bear the street address for the property.

§3-7-13.4 Computation of Maximum Total Permitted Sign Area. Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

§3-7-14 DESIGN, CONSTRUCTION, AND MAINTENANCE

All signs shall be designed, constructed, and maintained in accordance with the following standards.

(a) Except for banners, flags, and temporary signs conforming in all respects with the requirements of this Resolution [Ordinance], all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure.

(b) Every sign, including, but not limited to those signs for which permits are required, shall be maintained in a safe, presentable, and sound structural condition.

  (1) To prevent rust, peeling, flaking, fading or rotting, all signs and supports shall be painted, unless anodized or similarly treated.

(2) Broken panels, missing letters, defective illumination, torn fabric, flaking or peeling paint and other damage to a sign, shall be replaced or repaired.

(c) If a determination is made by the County [City] that any sign is unsafe, not secure, in violation of this section, or is in violation of any applicable law or a public danger, notice of such violation shall be given to the property owner and/or occupant where such sign is located. The property owner and/or occupant shall have 30 days from the date of said notice to remove, repair, or remedy said violation.

§3-7-15 SIGNS IN THE PUBLIC RIGHT-OF-WAY

No signs shall be allowed in the public right-of-way except the following.

§3-7-15.1 Permanent Signs.

(a) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(b) Bus stop signs erected by a public transit company.

(c) Informational signs of a public utility regarding its poles, lines, pipes, or facilities.

(d) Awning, projecting, and suspended signs projecting over a public right-of-way are permitted with a permit.

§3-7-16 SIGNS PROHIBITED UNDER THIS RESOLUTION [ORDINANCE]

All signs not expressly permitted under this Resolution [Ordinance], or exempt from regulation hereunder in accordance with the previous section, are prohibited in the planning jurisdiction of the County [City]. Such signs include, but are not limited to the following.

(a) Beacons.

(b) Pennants and streamers not in accordance with Section 5.0.

(c) Strings of lights not permanently mounted to a rigid background, except those exempt under the provision of Section 4.0.

(d) Inflatable signs and tethered balloons not in accordance with Subsection 5.5.

(e) Signs painted on or attached to trees, fence posts, rocks or other natural features, telephone or utility poles, or painted on the roofs of building visible from any public thoroughfare.

(f) Signs using the words "stop", "danger", or any other word, phrase, symbol or character in a manner that misleads, confuses or distracts a vehicle driver.

(g) Trailer signs.

(h) Roof Signs.

(i) Any sign or sign structure other than freestanding and vertical wall extension, any portion of which extends above the parapet, building roof line or canopy against which the sign is located.

§3-7-17 NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS

§3-7-17.1 Signs Existing on Effective Date. O.C.G.A. 32-6-83 states, “Any municipal corporation or county is authorized to acquire by purchase, gift, or condemnation and to pay just compensation for any property rights in outdoor advertising signs, displays, and devices which were lawfully erected but which do not conform with the provisions of any lawful ordinance, regulation, or resolution or which at a later date fail to comply with the provisions of any lawful ordinance, regulation, or resolution due to changed conditions beyond the control of the sign owner. No municipal corporation or county shall remove or cause to be removed any such nonconforming outdoor advertising sign, display, or device without paying just compensation.” In accordance, signs existing in the planning jurisdiction which were made nonconforming by the adoption of this Resolution [Ordinance] shall be permitted to remain in place and be maintained, provided that no action is taken which increases the degree or extent of the nonconformity.

§3-7-18 CRITERIA FOR APPROVAL OF SIGN VARIANCES

A variance may be granted upon application if an individual case of unusual hardship is placed upon the applicant. The request for a variance must meet the following conditions.

(a) There exist extraordinary and exceptional conditions pertaining to the property in question resulting from its size, shape, or topography that are not applicable to other lands or structures in the area.

(b) A literal interpretation of the provisions of this Resolution [Ordinance] would deprive the applicant of rights commonly enjoyed by other similar properties.

(c) Granting the variance requested would not confer upon the property of the applicant any significant privileges that are denied to other similar properties.

(d) The requested variance will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or to the general welfare.

(e) The special circumstances are not the result of actions of the applicant.

(f) The variance is not a request to permit a type of sign which otherwise is prohibited by this Resolution [Ordinance].

(g) The mere existence of a nonconforming sign or advertising device shall not constitute a valid reason to grant a variance.

§3-7-19 SIGNS PERMITTED AND MAXIMUM SIZES

Signs permitted in the County [City] shall be as provided for in Table 3-7-19.1 below. Each of the types of signs listed in Table 3-7-19.1 are mutually exclusive; meaning, a property owner is entitled to each of the following signs, independently of each other, if it clearly pertains to the land use as provided for in Table 3-7-19.1.

TABLE 3-7-19.1

Signs Permitted By Type of Land Use

Type of Sign	# Allowed / Property (unless otherwise specifically indicated)	Maximum Size By Type of Land Use (SF of one sign face)		
		Residence or Farm	*Office or Institution*	Commercial business or industry
Temporary sign.	One Per property frontage	32	32	32
Subdivision monuments	Two Per entrance	36	36	36
Accessory announcement sign	One	4	8	12
Ground signs Not part of a planned office, or commercial or industrial center	One Monument sign per road frontage	N/A	One SF of sign allowance / LF of road frontage, not to exceed 24 SF	One SF of sign allowance / LF of road frontage, not to exceed 48 SF
Wall signs	Two per building	N/A	1 SF of sign allowance / LF of store frontage or an option of 32 SF total	1 SF of sign allowance / LF of store frontage or an option of 48 SF total
Ground signs Located at a planned office, or commercial or industrial center industrial center	One Monument sign per road frontage	N/A	1 SF of sign allowance / LF of road frontage, not to exceed 48 SF total for monument	1 SF of sign allowance / LF of road frontage, not to exceed 96 SF total for monument
Wall sign, marquee, or canopy sign	Two per establishment		1 SF of sign allowance / LF of store frontage or an option of 32 SF total	1 SF of sign allowance / LF of store frontage or an option of 48 SF total
Sign Which are located in a multi-tenant building and which do not have visible building frontage from an off-street parking lot serving the site	One Per entrance	N/A	32	32
Window signs	N/A		Not to exceed 30% of any individual window frame	Not to exceed 30% of any individual window frame

TABLE 3-7-19.2

Maximum Total Sign Area

The maximum total area of all signs on a lot except incidental, building marker, temporary signs in compliance with Section 5.0, and identification signs, and flags, shall not exceed the lesser of the following:

Maximum Area (in SF)	8	8	200	200	100	100	200	800	400	2,000
% of Ground Floor Area of Principal Building	NA	NA	NA	NA	NA	4%	6%	10%	2%	2%
SF of Signage per LF of Street	NA	NA	.5	.5	.5	2.0	3.0	6.0	NA	NA

TABLE 3-7-19.3

Number, Dimensions, And
Location of Individual Signs

Individual signs shall not exceed the applicable maximum number dimensions or setbacks shown on this table and on TABLE 7-D.

FREESTANDING										
Area	8	8	12	12	40	40	80	80	80	80
Height	5	5	5	5	24	24	24	24	24	24
Setback	2	2	2	2	5	5	5	2	10	10
Per Zone Lot	1	1	NA	NA	1	NA	NA	NA	NA	NA
Per Feet of Street Frontage	NA	NA	1 Per 200	1 Per 200	NA	1 Per 100	1 Per 200	1 Per 100	1 Per 800	1 Per 200
BUILDING										
Area	8	8	12	12	10	NA	NA	NA	NA	NA
Wall Area	NA	NA	NA	NA	NA	25	25	25	25	25

(a) For locations that are situated within 500 feet of a freeway interchange, the maximum height of freestanding signs shall be 125 feet and the maximum area shall be 250 square feet

(b) Maximum sign height is 24 feet, and minimum setback is five feet; however, in no case shall the actual sign height exceed the actual sign setback from any adjacent lot that is zoned and used for residential purposes. For example, if the sign is set back seven feet from such a lot, it may be no more than seven feet high.

(c) In addition to the setback requirements on this table, signs shall be located such that there is at every street intersection a clear view between heights of three feet and ten feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entrance way.

(d) The percentage figure here shall mean the percentage of the area of the wall of which such sign is a part or to which each such sign is most nearly parallel. Provided, however, that the area of such signs shall not exceed the area of a freestanding sign permitted for the property.

TABLE 3-7-19.4

Number and Dimensions of Certain Individual Signs by Sign Type

			Vertical Clearance	
	Number Allowed	Minimum Sign Area	From Sidewalk, Private Drive or Parking	From Public Street
No sign shall exceed any applicable maximum numbers or dimensions, or encroach on any applicable minimum clearance shown on this table.				
FREESTANDING				
Residential, Other and Incidental	NA	NA	NA	NA
BUILDING				
Banner	See Subsection 3-7-8.2	See Subsection 3-7-8.2	9 Feet	12 Feet
Building Marker	1 Per Building	4 Square Feet	NA	NA
Canopy	1 Per Occupant	25% of Vertical Surface of Canopy	9 Feet	12 Feet
Identification	1 Per Occupant	NA	NA	NA
Marquee	1 Per Occupant	NA	9 Feet	12 Feet
Residential	1 Per Zone Lot	NA	NA	NA
Roof Integral	2 Per Principal Building	NA	NA	NA
Suspended	1 Per Entrance	NA	9 Feet	NA
Temporary	See Section 5.0	NA	NA	NA
Window	NA	25% of Total Window Area	NA	NA
MISCELLANEOUS				
Banner	See Subsection 3-7-8.2	See Subsection 3-7-8.2	9 Feet	12 Feet
Flag	NA	NA	9 Feet	12 Feet
Portable	1 Where Allowed	20 Square Feet	NA	NA

TABLE 3-7-19.5

Types Of Attached Signs

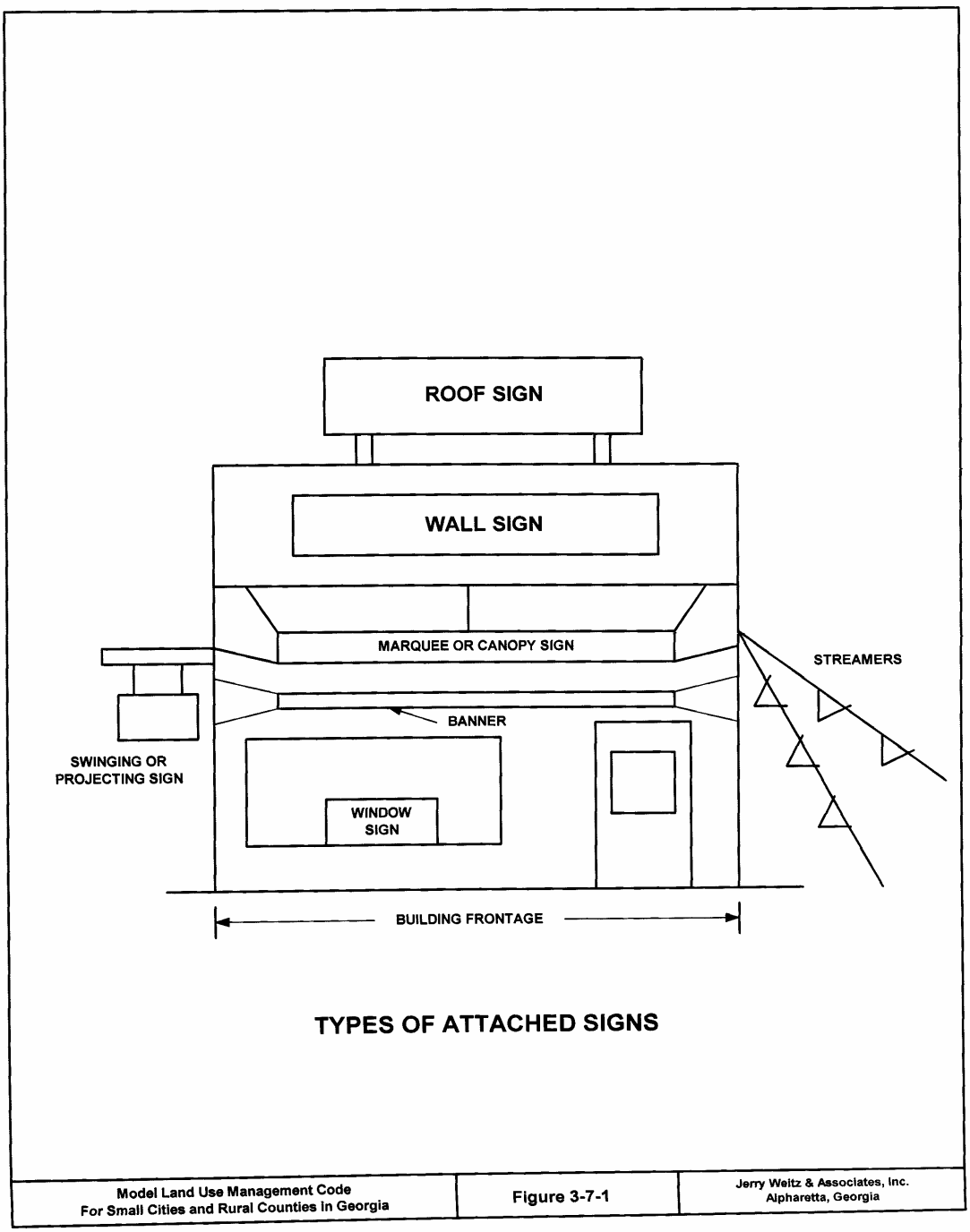
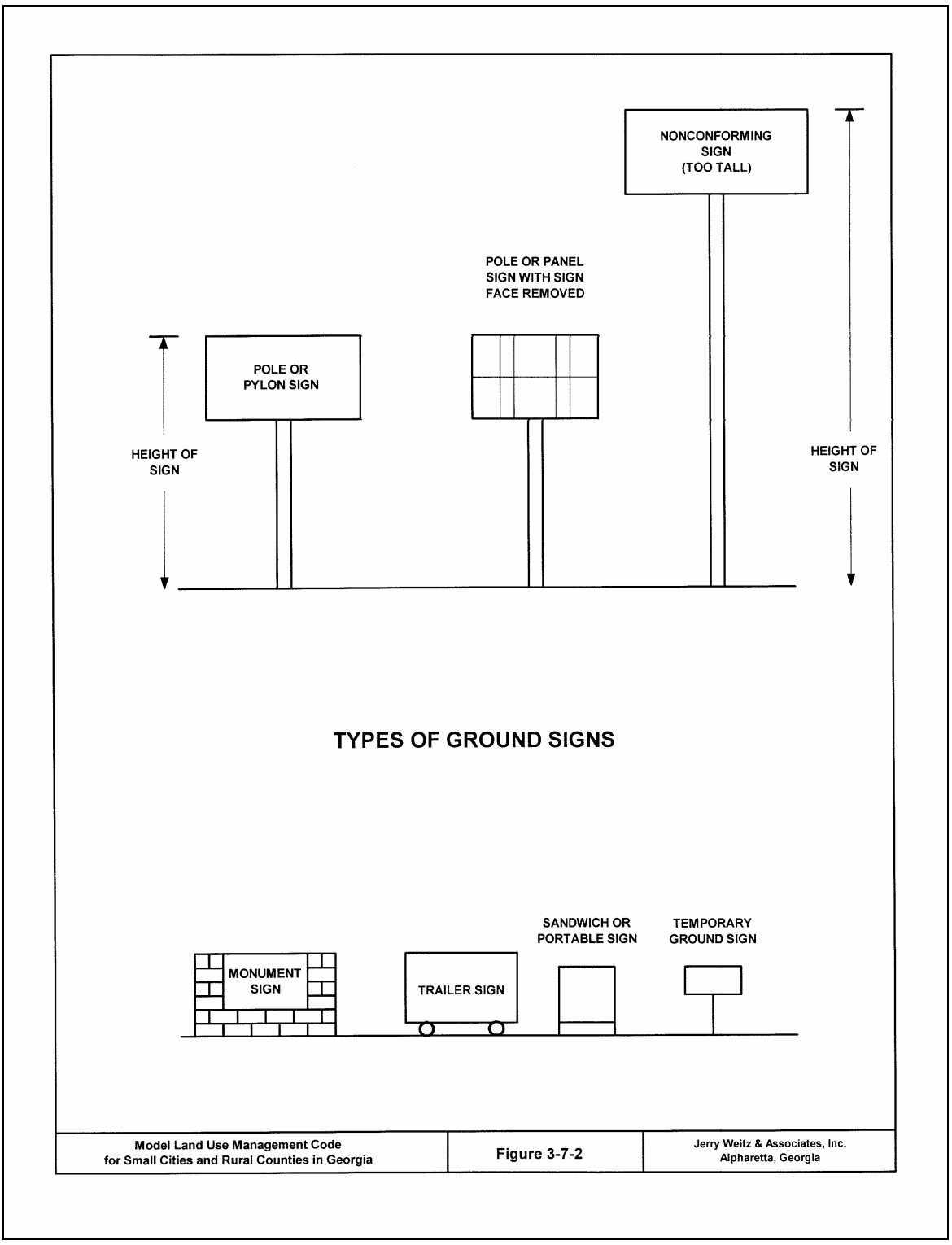


TABLE 3-7-19.6

Types Of Ground Signs



Commentary: If this module is intended to stand alone, rather than be adopted as a part of the overall land use management code, then the following additional elements of this code should be incorporated into this Resolution [Ordinance]:

§2-0 (Various portions, as appropriate)
§7-1 PROCEDURES
§7-2 BOARD OF APPEALS (Variances and Appeals)

References:

Mandelker, Daniel R. 2001. Sign Regulation and Free Speech: Spooking the Doppelganger. In Patricia E. Salkin, Editor, Trends in Land Use Law from A to Z: Adult Uses to Zoning. Chicago: American Bar Association.

§ 3-8 PLANNED UNIT DEVELOPMENT

Commentary on when this module can apply: PUD ordinances are typically adopted only as a part of (and a reformist alternative to) a conventional zoning ordinance. Because a property not governed by zoning (or land use intensity) districts would not be restricted as to general use, there would be no real need to specifically authorize mixed uses absent a zoning code. Juergensmeyer and Roberts (1998, 328) characterize PUDs as a "union of cluster zoning and subdivision platting" and a "route around traditional zoning" (p. 331). Therefore, the PUD ordinance module is not likely to be a stand alone ordinance. Rather, it is better suited as an appendage to a zoning ordinance or land use intensity district scheme, such as that found in § 6-1 of this Model Land Use Management Code. This ordinance as written relies on certain other components of the Model Land Use Management Code.

Commentary: Planned unit development (PUD) ordinances have actually been around since the 1920s (Juergensmeyer and Roberts 1998) but became a viable alternative in earnest by the 1950s. They were not commonly practiced as a land use technique until the 1960s and were gradually accepted by the early 1970s (Kelly 1988). According to Robert Burchell (1972), the PUD was one of the first land use controls that enabled communities to control the tempo and sequence of development. Thus, the PUD had early significance as a growth management tool. PUDs can be compared to "new towns," in that they are designed to permit the development of entire neighborhoods (Juergensmeyer and Roberts 1998). PUDs are usually built on a smaller scale, however, and often do not contain as logically balanced a mixture of land uses. PUD ordinances are often based on the principle that the development plan generally does not have to follow the regulations of the zoning district in which the development is located.

From an historical perspective, PUDs have served four primary purposes:

- *Allow mixed uses. PUD ordinances provide a way of escaping the use segregation requirements of conventional zoning ordinances (Kelly 1988). By the 1960s conventional zoning was considered by some to be much too rigid and unable to accommodate different land uses in a single development. PUD ordinances were adopted by local governments because of criticisms of the rigidity of conventional zoning. PUDs arose as a way to permit a mixture of land uses (usually residential, with a mix of housing types and sometimes with some accompanying neighborhood commercial uses) that was otherwise not allowed by conventional zoning districts.*
- *Permit design flexibility and creativity. By the 1960s, critics began to question the monotonous, lot-by-lot design of residential subdivisions that was resulting from conventional zoning practices. Due to their flexibility in development standards, PUD ordinances encourage creative design. Some of the creativity and flexibility is suggested so that developers will use land more efficiently. PUDs are not usually subject to standard height, area (lot size) and setback controls that typical zoning districts require. Much greater variations in the location and grouping of buildings are allowed than with conventional zoning practices. Typically, the developer proposes a set of standards for development. If the standards and the development plan are approved, they are legally binding on the developer and the local government. PUD ordinances in essence throw*

out the existing zoning rules for a major development and substitute a set of special rules negotiated between the municipality and the developer (Platt 1996).

- *Provide for more open space. PUDs provide for public and/or community open space that is typically not achievable under conventional zoning and standard subdivision platting practices. PUDs were initiated in part because under conventional zoning schemes the entire landscape usually has to be bulldozed to make a subdivision with the gridiron development pattern fit (Kelly 1988).*
- *Coordinate as one development. The conventional subdivision platting process has had the effect of discouraging large-scale projects, because larger projects take longer to build and are easily disrupted by changes in local regulations. In this sense PUDs share characteristics with a development agreement (see Model Code module § 6-3), namely, establishing vested rights for multi-year projects. PUDs may consist of only one tract, or they may be subdivided into a number of tracts, but a key defining feature of a PUD is that it is developed as a single development. PUDs, particularly the larger ones, are likely to be developed in a sequence of coordinated phases, with residential development being constructed first and neighborhood commercial uses constructed later (if part of the PUD).*

Legal Commentary: Because Georgia does not have a planning and zoning enabling act, PUDs are not specifically authorized as a land use tool. Since PUDs provide an alternative to conventional zoning, where uniformity of use is not secured, PUDs could conceivably be held invalid (Juergensmeyer and Roberts 1998, 330-331). However, PUD regulations are considered valid in Georgia, as they are widely practiced. If the legal authority for PUD regulation in Georgia does not emanate from constitutional zoning powers, then it is legitimately within the scope of local government home rule powers. PUD ordinances have been upheld in other states even where not specifically authorized by state enabling legislation (Juergensmeyer and Roberts 1998, 332).

§ 3-8-1 PURPOSE AND INTENT

The purposes of this Code section are to:

(a) Allow and encourage more unique, flexible, creative and imaginative arrangements and mixes of land uses in site planning and development than are permitted through conventional land use requirements.

(b) Encourage a broader mix of residential housing types, including detached and attached dwellings, than would normally be constructed in conventional subdivisions.

(c) Allow and encourage the development of tracts of land as single developments that are planned neighborhoods or communities, including civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community.

(d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments.

(e) Provide for the more efficient use of land through clustering and other flexible, innovative development arrangements that will result in smaller networks of utilities and streets and thereby lower development and housing costs.

(f) To provide a more desirable living environment than would be possible through the strict application of conventional requirements.

(g) Establish application requirements that are more rigorous than rezoning applications and conditional use permits but no more onerous than is necessary to enable thorough analyses.

(h) Provide for slightly higher gross and net development densities and intensities as an inducement to develop in a manner consistent with the purposes of this resolution [ordinance].

(i) Ensure that the design of building forms are interrelated and architecturally harmonious.

Commentary: The last three purposes (g, h and i) are not necessarily common to all PUD ordinances, but the other purposes are shared by most PUD regulations. Generally, PUD applications usually require the submission of more information (e.g., development statistics, a detailed site plan, architectural renderings, etc.) than required for applications for development under conventional zoning. Communities may not want to provide higher densities for PUDs, although an incremental increase in density is one way to "incentivize" or encourage better design.

§ 3-8-2 DEFINITIONS

Active Recreational Facilities: Equipment and areas prepared for active use for recreational and leisure purposes, including but not limited to: playground equipment (swing sets and climbing structures); courts for basketball, volleyball, and tennis; leveled, striped fields for football, soccer or multiple purposes; community picnic pavilions (including covered facilities with grills and/or fire rings); community buildings for recreational events and golf courses, excluding clubhouses, developed areas and accessory uses. Trails and bikeways through open spaces shall not be considered active recreational facilities.

Comprehensive Plan: Any plan adopted by the _____ County Board of Commissioners [Mayor and City Council of the City of _____], or any plan adopted by a regional development center covering the local jurisdiction, or portion of such plan or plans. This definition shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document or written recommendation pertaining to subjects normally within the subject matter of a Comprehensive Plan as provided by the Georgia Planning Act of 1989, if formally adopted by the local governing body.

Development Plan: A to-scale drawing of a single-family residential, multi-family residential, institutional, office, commercial or industrial development, or some combination thereof, showing the general layout of a proposed development including among other features the location of buildings, parking areas, buffers and landscaping and open spaces. The development plan and related information form the basis for the approval or disapproval of the development of a PUD.

Open Space: An area within a PUD designed and intended for the use and enjoyment of all residents or for the use and enjoyment of the public in general.

Recreation, Passive: Recreational activities and places that generally do not require a developed site. This generally includes such activities as hiking, horseback riding and picnicking, provided that such activities occur in a manner that is consistent with existing natural conditions.

Planned Unit Development (PUD): A form of development characterized by a unified site design for a number of housing units, clustered buildings, common open space and a mix of building types and land uses, which may be in a slightly more dense setting than allowable on separate lots.

§ 3-8-3 PERMITTED LOCATIONS AND USES

Planned unit developments shall be permitted in the Suburban Residential (SR) and Urban Residential (UR) land use intensity districts. Any use may be permitted in a PUD if said use is shown or referred to in the PUD application for development and approved in accordance with this resolution [ordinance]. The permitted uses of property located in a PUD shall be proposed by the development applicant and approved at the time the PUD application is approved if the proposed uses are consistent with the comprehensive plan and meet the criteria for approval specified in § 3-8-7.3. The Board of Commissioners [Mayor and City Council], in approving any PUD, may designate the maximum height, floor area and/or other restrictions on the development of such uses.

Commentary: This code subsection addresses whether PUDs are permitted, and if so, where (i.e., what zoning district or what areas). PUD ordinances are typically adopted as a part of a conventional zoning ordinance. There are various alternatives for allowing PUDs. This commentary summarizes four approaches that code writers might take. As written, this module is linked to § 6-1of the Model Land Use Management Code, as if the local government wants to add a PUD option as a "use" to its land use intensity district program. Instead of this section, or in addition, one should list planned unit developments as a permitted (or conditional) use in the list of uses provided in § 6-1of the Model Land Use Management Code.

1. *Allow PUDs as a permitted use in certain existing land use intensity (or zoning) districts (This is the approach taken here).*
2. *Permit PUDs as a "conditional" use (i.e., after public hearing and approval by the governing body).*
3. *Establish the PUD as its own separate zoning or land use intensity district (e.g., a "floating" or unmapped zone) that is permitted only after application by a developer and approval by the governing body. If this alternative is chosen, the PUD concept could easily be set up as a land use intensity district in § 6-1. Communities that elect to adopt a conventional zoning ordinance (or the land use intensity district approach*

provided in § 6-1 of this Model Land Use Management Code) could incorporate this Code section there as a separate district.

4. *Establish a PUD overlay district. This alternative may be appropriate when communities want to apply PUD regulations to a certain, specific area.*

§ 3-8-4 DIMENSIONAL REQUIREMENTS

A planned unit development may depart from strict conformance with the required dimension, area, height, bulk, use and specific content regulations of the county's [city's] land use regulations to the extent specified in the PUD application if approved, so long as the PUD provides tangible benefits in the form of provisions of open space, amenities, superior design, etc. Departure from any requirements specified in this resolution [ordinance] and other county [city] regulations is a privilege and shall be granted only upon approval by the governing body after review and recommendation by the planning commission.

A PUD development plan shall not have to follow the regulations for the zoning district in which the development is located, unless otherwise provided in this Code section. There shall be no requirements for minimum lot size, minimum lot width, lot coverage, yards and building setbacks or height requirements that apply to PUDs. Dimensional requirements shall be as proposed by the applicant of the PUD and approved by the Governing Body during the PUD development plan review process.

Commentary: PUD ordinances are highly flexible in that they often allow developers to propose a mixture of land uses, the densities (which often are capped by the governing body to be compatible with surrounding land uses), building placement and other planning and design factors. Kelly (1988, 276) characterizes PUD ordinances as "zoning by negotiation" and a "standardless form of regulation."

§ 3-8-4.1 Minimum Open Space. A minimum of twenty (20) percent of the total land area included within the PUD shall be open space, including active or passive recreation.

§ 3-8-4.2 Density. The minimum allowable density for residential components of PUDs shall be __ dwelling units per gross acre of land devoted to residential uses.

Commentary: PUD ordinances establish an overall density rather than a minimum lot size to measure intensity of residential land use (Kelly 1988). The provision above would establish an overall density for the residential portions of the tract. Another alternative is to allow a density "bonus," or a density maximum that is slightly higher than what is otherwise allowed, as an incentive for good design, more open space and higher quality amenities. For instance, the maximum number of dwelling units per acre in residential areas of the PUD might be set at 120 percent of the gross density recommended by the future land use map of the comprehensive plan for the unit of land. Ordinance writers should also be careful to consider the "gross" versus "net" density distinction. Where the provision above refers to "gross" acreage, some other PUD ordinances calculate density on a "net" acreage basis.

§ 3-8-5 GENERAL CONSIDERATIONS FOR LAND USE MIX AND DESIGN

§ 3-8-5.1 Comprehensive plan. Uses within the PUD shall be predominantly in accordance with the use recommendations and policies of the comprehensive plan.

§ 3-8-5.2 Housing unit diversity. Where appropriate, the planned unit development should provide for more than just one type of dwelling unit, such as townhouses, duplexes and multi-family dwellings in addition to (or in lieu of) detached, single-family dwellings. Multi-family dwellings should not typically comprise more than twenty-five (25) percent of the total dwelling units within the PUD.

§ 3-8-5.3 Civic and institutional uses. Sites for churches, schools, community or club buildings and similar public or semi-public facilities are encouraged to be provided, where appropriate.

§ 3-8-5.4 Retail component. Enclosed retail trade establishments and personal service establishments, if proposed, should be located in careful relation to other land uses within and outside of the development. Such uses need to be scaled to the pedestrian and to the PUD itself so that they predominantly if not exclusively serve the occupants of PUD. Such uses should be designed and oriented to face the interior of the PUD rather than to passerby traffic exterior to the PUD. The amount of land in a PUD devoted to retail trade establishments and personal service establishments should not exceed ten (10) percent of the total site area of the development.

Commentary: Local governments should be realistic in terms of trying to require mixtures of retail uses within small PUDs. Sometimes it may not be economically feasible. Some local governments require a market study to ensure that the PUD can support neighborhood retail uses.

§ 3-8-5.5 Industrial uses. Industrial uses are not typically considered to be appropriate for inclusion within PUDs; however, such uses are not prohibited and may be considered appropriate uses in larger (e.g., twenty acres or more) PUDs where living and working areas need to be proximate to one another, subject to separation and screening requirements to avoid nuisances.

§ 3-8-5.6 Interconnectivity. Design of detached single-family neighborhoods and residential communities in PUDs shall provide pedestrian access and interconnections between and among units of the neighborhood.

§ 3-8-6 APPLICATION REQUIREMENTS

An application for PUD shall contain the following:

§ 3-8-6.1 Development Plan. Applications shall include a development plan, as defined, which unless specifically stated otherwise shall be a condition of PUD approval and must be followed.

Legal Commentary: Ordinances should specify that compliance with the development plan is required. This is necessary to avoid the mistake made in Cherokee County et al. v. Martin (253 Ga. App. 395, 559 S.E.2d 138) (2002), where the courts affirmed a developer's right to build an apartment complex (as a part of a PUD application) even though it was not shown on the site plan, because the county did not specify compliance with the site plan as a condition of PUD zoning.

Commentary: Some PUD ordinances specify a preliminary and a final development plan review process. For purposes of simplicity, only one step is required here.

§ 3-8-6.2 Architectural Elevations. Applications shall include perspective front, side and rear elevation drawings of representative building types, except for detached single-family dwellings and their accessory buildings. These drawings shall indicate general architectural characteristics. If the PUD is approved, architectural elevations submitted as part of the application shall be considered binding unless specifically noted otherwise in the approval. If the PUD involves detached single-family dwellings, architectural elevations shall not be required.

§ 3-8-6.3 Land Uses and Development Summary. The application shall include a list of all land uses proposed to be included in the PUD, the total land area devoted to each of the land uses proposed, the percentage of the total land area within the PUD devoted to each proposed land use, the number of residential units by type and density, and the total square footage of buildings devoted to non-residential uses. In addition, the application shall contain a development schedule indicating the approximate dates for beginning and completing the project, or each phase if the development is to be phased, and the extent of development and types of land uses in each phase.

§ 3-8-6.4 Performance Standards Comparison. The application shall contain all minimum dimensional requirements that are proposed to apply within the PUD, including minimum lot sizes, minimum lot widths, maximum lot coverage, front, side and rear yards and building setbacks, and maximum heights. Such proposed performance standards shall be presented in a table on the site plan or in the written text accompanying the application that shows the proposed lot, height, coverage and other dimensional standards in relation to the performance standards required for the zoning [or land use intensity] district or districts in which the subject property is located.

§ 3-8-6.5 Improvement Requirements Comparison. The application shall contain descriptions of improvements to be constructed within the PUD, such as but not limited to street types, right-of-way widths, pavement widths, sidewalk locations and dimensions, and other improvements. Such proposed improvements shall be presented in a table in the written text accompanying the application that shows the proposed improvements in comparison with improvements that would be required otherwise without approval of a PUD.

§ 3-8-6.6 Private Restrictions. PUDs that have commonly owned facilities and space shall have private restrictions and covenants established which shall be subject to the approval of the county [city] attorney and land use officer. The developer of a PUD involving commonly owned facilities and space shall submit, along with the development plan application, a

declaration of covenants, conditions and restrictions, articles of incorporation and by-laws for the property owners or home owners association. The declaration shall confer membership to the owner of property subject to assessment by the association, provide for voting rights in the association with suggestions for the division of power between the developer and the property owners and provide for maintenance assessments, among other things.

§ 3-8-6.7 Community Benefit Statement. The applicant shall submit a written statement identifying the relative benefits that will accrue to the community as a result of the property being developed under PUD provisions. Specific mention should be made of mix of uses included, open spaces provided, natural features retained and architectural design to be provided. This statement is a developer's opportunity to define why the PUD proposal merits approval and how it will serve the community better than a conventional development.

§ 3-8-7 APPROVAL PROCEDURES

Commentary: PUD development approval is generally granted at one time rather than on a phase-by-phase or lot-by-lot basis (Juergensmeyer and Roberts 1998). The procedure below is written so that the governing body has final approval of PUDs. Because the lack of pre-specified dimensional requirements, approval procedures for PUDs allow for bargaining between the developer and the local government, much like a development agreement (see section 6-3 of this Model Land Use Management Code).

Legal Commentary: Because of the negotiation involved in PUD approval processes, the issue of contract zoning may arise (Juergensmeyer and Roberts 1998, 331). Generally, Georgia courts hold that contract zoning is invalid but conditional zoning is valid. See Cross et al. v Hall County et al. (238 Ga 709) (1977). As long as conditions of PUD approval are clearly related to actions which are needed to mitigate adverse impacts of a development proposal, and provided they are consistent with general laws, the negotiation of conditions of zoning as part of PUD application processes should be legally defensible.

Legal Commentary: Because PUD approval is most likely a "rezoning action" despite the manner in which the local government's procedures are structured (e.g., a rezoning action, or a special use permit), PUD application processes should comply with the state's zoning procedures law (O.C.G.A. 36-66).

§ 3-8-7.1 Pre-application Conference. Prior to filing a formal application for a PUD, the applicant is required to confer with the land use officer in order to review the general character of the plan and to obtain information on the nature and extent of the proposed development.

§ 3-8-7.2 Recommendation and Approval Authority. All applications for PUD shall be processed and considered by the Planning Commission and decided upon by the Board of Commissioners [Mayor and City Council] as if they are applications for zoning map amendments, whether or not a request for a change in the zoning district or districts is involved, and shall be subject to the public hearing and notice requirements specified § 7-1 of this Code. After review by the Planning Commission and public hearing in accordance with aforementioned procedures, the Board of Commissioners [Mayor and City Council] may disapprove, approve, or approve with modifications and/or conditions, the PUD.

Commentary: Local governments must be sure in adopting this ordinance that they comply fully with the Zoning Procedures Law (O.C.G.A. 36-66). To fully implement this ordinance, the local government needs to have policies and procedures for calling and conducting a public hearing for rezoning applications. Section 7-1 of the Model Land Use Management Code satisfies those requirements and is referenced in the above code provision. If the local government has not adopted Section 7-1 of the Model Code, the above language should refer to other adopted procedures.

§ 3-8-7.3 Criteria for Approval. In considering and acting upon applications for PUDs, the Planning Commission and the Board of Commissioners [Mayor and City Council] shall consider and base their recommendation and decision, respectively, on the following criteria (not all inclusive), and any other factors it may consider appropriate in reaching such a decision:

(a) Consistency with the comprehensive plan of the county [city].
(b) The character, location, and appropriateness of the proposed mix of land uses.
(c) The extent to which the proposed architectural features of buildings within the planned unit development are harmonious.
(d) The adequacy of open spaces and play areas and recreation facilities that are provided for the needs of the development occupants.

§ 3-8-7.4 Revisions. Amendments to approved PUDs shall be permitted but governed by the procedures and provisions for changing the official zoning [or land use intensity district] map as specified in § 7-1 of this Code.

Commentary: Some PUD ordinances distinguish between minor revisions, which can be approved administratively by staff, and major changes which require approval by the governing body. Substantial changes should not be allowed to be approved administratively, as that may constitute an unlawful delegation of authority (Juergensmeyer and Roberts 1998, 334).

§ 3-8-7.5 Construction Plans. Upon approval of a PUD application by the governing body, the land developer may apply for construction plan approval. Construction plans must be submitted within a two-year period following PUD approval by the governing body or the PUD authorization shall expire. The construction plan approval process is administrative. Applications for construction plan approval shall be made in accordance with requirements shown in Table 2-2-1 and Table 2-2-2 of § 2-2 of this Code.

Commentary: Local governments that include this provision need to adopt § 2-2 of the Model Land Use Management Code or at least insert the two tables referenced above from that Code module.

§ 3-8-7.6 Permits and Certificates. No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading or land disturbance applications be approved, for any PUD that has not been approved in accordance with the provisions of this Resolution [Ordinance]. The Land Use Officer shall authorize the issuance of building permits for buildings and structures in the area covered by the approved PUD if they are in substantial conformity with the approved PUD, after improvements are installed in accordance with applicable improvement requirements, and if found to be in conformance with all other applicable regulations. The Land Use Officer shall authorize the issuance of a certificate of occupancy for any completed building, structure or use located in the area covered by the PUD if it conforms to the requirements of the approved PUD and all other applicable regulations. After completion of a PUD, the use of land and construction, modification or alteration of any buildings, structures or uses within the area covered by the PUD shall be regulated by the approved development plan for the PUD.

§ 3-8-7.7 Appeals. Any person aggrieved by an interpretation or decision of the Land Use Officer in the administration of this Resolution [Ordinance] may file an appeal to the Board of Appeals in accordance with Section 7.2 of this Code.

Commentary: Local governments that include this section in their ordinance must adopt the appeal provisions in Section 7.2 of the Model Land Use Management Code.

References:

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§ 3-9 LANDSCAPING AND BUFFERS

CONTENTS

§ 3-9 LANDSCAPING AND BUFFERS

Commentary: How this Module Fits With Other Model Code Provisions. This module provides detailed landscape and buffer requirements. To ensure it can fit with other components of this model code, consult the following table:

§ 3-9-1 PURPOSE

SECTION OF MODEL CODE	*COMPAT WITH § 3*
§ 3-4, Tree Protection	*§ 3-4 can without contradict*

It is the purpose of this Resolution [Ordinance] to provide environmentally sound landscape amenities and buffers which promote a positive community image by promoting quality development, enhancing property values, providing for landscape improvements in the City [County] and promoting orderly growth and aesthetic quality in the City [County]. It is also the intent to promote a healthy, natural environment whenever possible by protecting and enhancing existing vegetation.

Landscaping enhances a community's environmental and visual character and improves the overall quality of life. Vegetation can also improve air and water quality, reduce soil erosion, reduce noise and glare, provide habitat for wildlife, moderate the climate and enhance property values, thus protecting the health, safety and welfare of the community.

However, inappropriate landscaping can degrade the quality of the natural environment by requiring excess water and pesticides, or by creating unnecessary conflicts with sewers, sidewalks and vehicle access. Thus it is important to promote environmentally sound landscaping, including the use of low-maintenance, drought-resistant and native or non-invasive plants, and to ensure that the right tree is planted in the right place. Environmentally sound landscaping also means restricting the use of invasive and potentially invasive species. Although well-mannered non-native species can be welcomed additions to a landscape, invasive species can cause severe economic and environmental harm (including crop damage and degradation of native habitats) and can engender significant control costs.

This resolution [ordinance] also establishes standards for buffers. Buffers between two incompatible uses minimize harmful impacts such as transmission of noise, dust and glare. Buffers can also lessen visual pollution, establish a greater sense of privacy from visual or physical intrusion, and thus protect the public health, safety and welfare of the community. The presence of trees and other vegetation aids in storm water management, helps to prevent erosion, improves air quality, conserves energy, provides wildlife habitat and preserves and enhances property values.

Additionally, this resolution [ordinance] is intended to require the landscaping of new parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, and the

glare of motor vehicle lights; to prevent soil erosion; to provide shade; and to enhance the appearance of parking lots.

§ 3-9-2 DEFINITIONS

For the purposes of this Resolution [Ordinance], the following words are defined:

Arborist: The agent(s) of the City [County] having the primary responsibilities for administering and enforcing this code section.
Berm: An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.
Buffer: A combination of physical space and vertical elements, such as plants, berms, fences or walls, the primary purpose of which is to separate and screen incompatible land uses from each other.

Commentary: § 3-2-3 provides an alternative definition of buffer that should be reconciled if it is adopted along with this Model Code, Section 3-9.

Deciduous: A plant with foliage that is shed annually.
Diameter Breast Height (dbh): The standard measure of tree size for those trees existing on a site that are at least four-inch caliper at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below four and one-half (4.5) feet, then the trunk is measured at its most narrow point beneath the split.
Evergreen: A plant with foliage that persists and remains green year-round.
Frontage: The length of a property abutting a street, or the length of a building fronting a street.
Ground Cover: Living material planted in such a way as to form an eighty (80) percent or more ground cover at the time of planting and a continuous cover over the ground that can be maintained at a height of not more than eighteen (18) inches.
Hedge: An evenly spaced planting of shrubs that forms a compact, dense, visually opaque living barrier. Hedges inhibit passage or obscure views.
Invasive Species: A non-native species that can cause environmental or economic harm, or harm to public health.

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

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

Natural Area: An area containing natural vegetation that will remain undisturbed when the property is fully developed.

Perimeter Landscaping: The use of landscape materials adjacent to the outer boundary of a parcel, or the outer boundary of a lease line, or the outer boundary of the developed area of a parcel.

Revegetation: The replacement of trees and landscape plant materials.

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

Shrub: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground and generally obtaining a height less than eight (8) feet; a shrub may be deciduous or evergreen.

Tree: Any self-supporting, woody perennial plant usually having a single trunk diameter of three (3) inches or more that normally attains a mature height of a minimum of fifteen (15) feet.

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

§ 3-9-3 APPLICABILITY

For parking lots of five spaces or more, the developer shall provide landscaping along the street right-of-way(s) to which the property has frontage, the parking lot perimeter and the parking lot interior as specified in this Resolution [Ordinance].

Developers of new, nonresidential buildings shall provide landscaping between the building and the street right-of-way(s) to which the property has frontage, as specified in this Resolution

[Ordinance]. Buffers and screening shall also be provided in accordance with this Resolution [Ordinance].

No land use permit or building permit shall be issued, and it shall be unlawful to commence development or construction, until it is determined that the proposed development or building is in conformance with the provisions of the Resolution [Ordinance], as applicable.

Commentary: These regulations provide more detailed and more stringent standards than those provided in Section 5-3-13 of this Model Land Use Management Code. Jurisdictions should use the standards that best suit their needs.

§3-9-4 LANDSCAPE ADJACENT TO STREET RIGHT OF WAY

One of the following five planting specifications shall apply to all parking lots established after the adoption of this resolution [ordinance]. The applicant may choose but shall comply with one of the five following options for landscaping adjacent to the public right of way. The landscape requirement shall not apply to vehicle access areas and shall not include any other paved surfaces with the exception of pedestrian sidewalks or trails and areas approved for stormwater management.

Option 1. Minimum 10-foot wide landscape strip, planted with a minimum of one shade tree and 10 shrubs per 35 linear feet of street frontage, excluding driveway openings (Figure 3-9-1).

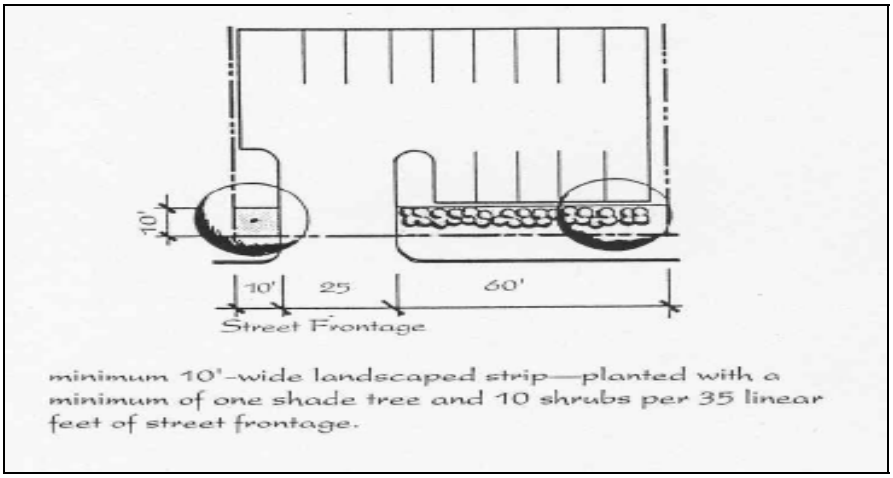

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Figure 3-9-1
Option 1, Landscape Adjacent to Street Right-of-Way

Option 2. An earth berm at least 2.5 feet higher than the finished elevation of the parking lot, with one shade tree and five shrubs for every 35 linear feet of frontage (Figure 3-9-3).

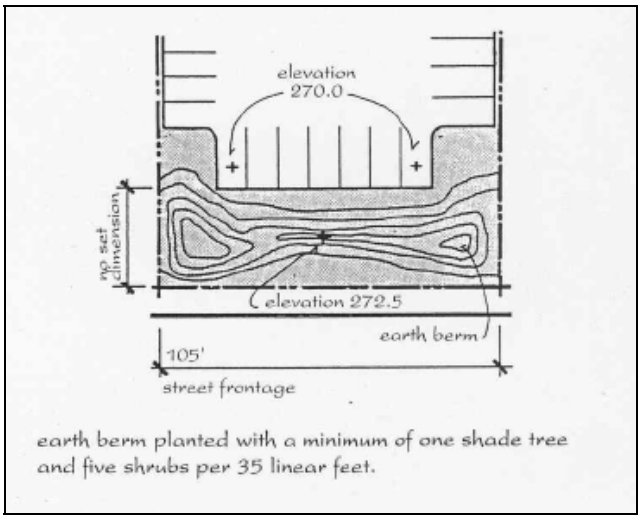

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Figure 3-9-2
Option 2, Landscape Adjacent to Street Right-of-Way

Option 3. A six-foot landscaped strip with a minimum three-foot grade drop from the right-of-way to the parking lot. One shade tree and five shrubs are required for every 35 linear feet (Figure 3-9-3).

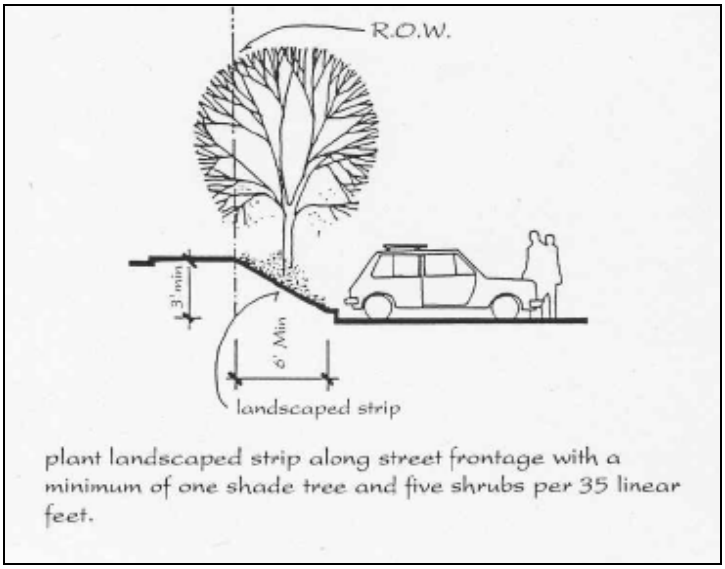

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Figure 3-9-3
Option 3, Landscape Adjacent to Street Right-of-Way

Option 4. A three-foot high fence of brick, stone, or finished concrete wall, with a four-foot buffer strip, planted with a minimum of one shade tree per 35 linear feet of frontage (Figure 3-9-4).

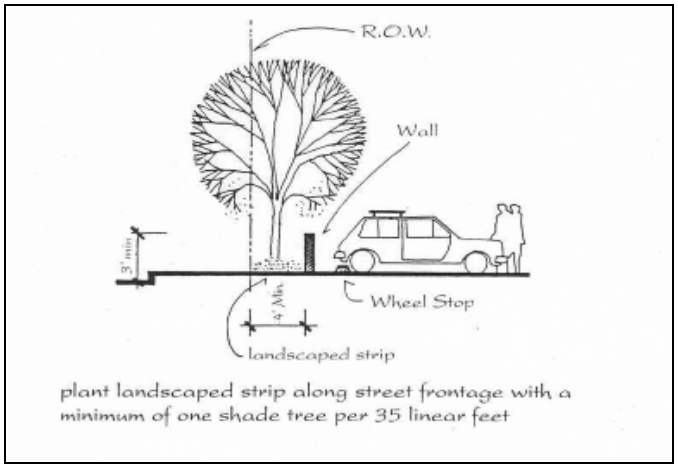

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Figure 3-9-4
Option 4, Landscape Adjacent to Street Right-of-Way

Option 5. If existing woodlands are determined by the Arborist to be sufficient to meet the intent of this Resolution [Ordinance], the applicant may preserve a 25-foot wide natural buffer strip to satisfy the requirements of this Code, subsection (Figure 3-9-5).

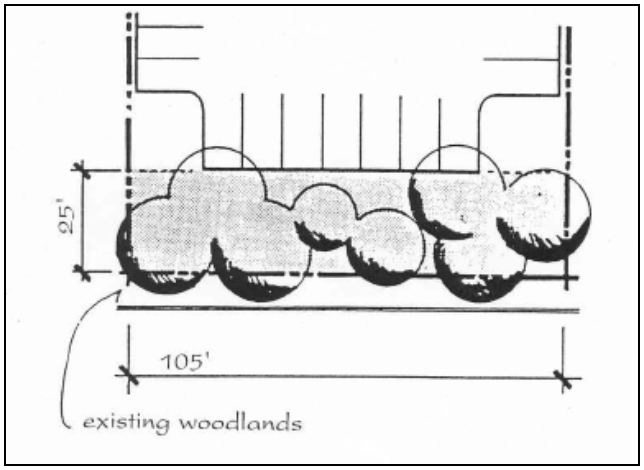

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Figure 3-9-5
Option 5, Landscape Adjacent to Street Right-of-Way

.

Commentary: These landscape requirements duplicate (conflict with) provisions of Table 6-1-2 in Section 6-1 of this model code. Local governments adopting Section 6-1 and this module should be careful to reconcile the duplication and conflicts.

§ 3-9-5 PARKING LOT LANDSCAPE ALONG OTHER PROPERTY LINES

Along all property lines not abutting a street right-of-way, or along the perimeter of the developed portion of the lot in case the development does not extend to a property line, parking lots subject to the requirements of this subsection shall include a perimeter landscape strip at least five (5) feet wide. The perimeter landscape strip shall not apply to interparcel access points but shall not include any other paved surfaces with the exception of pedestrian sidewalks or trails and areas approved for stormwater management. Within the perimeter landscape strip, the applicant shall install one (1) tree and three (3) shrubs for each 35 linear feet of property boundary along the perimeter to which this code subsection applies, unless the Arborist approves the use of existing woodlands or other vegetation as meeting the intent of this Resolution [Ordinance]. See Figure 3-9-6.

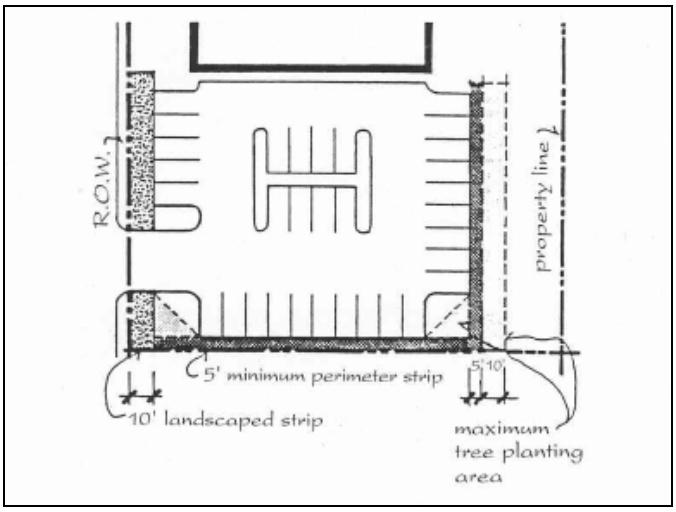

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Figure 3-9-6
Perimeter Landscape Strip

Commentary: These landscape requirements do not duplicate or conflict with provisions of Table 6-1-2 in Section 6-1 of this Model Code.

§ 3-9-5 PARKING LOT INTERIOR LANDSCAPING

Interior lot landscaping shall be required for any parking lot subject to the requirements of this resolution [ordinance]. An interior parking lot landscape island at least nine (9) feet wide (Figure 3-9-7) and at least 150 square feet in area shall be provided for every ten (10) spaces in each row of parking spaces abutting the perimeter or within the interior of the parking lot. Within each interior parking lot landscape island, a minimum two-inch (2") caliper tree shall be required to be planted.

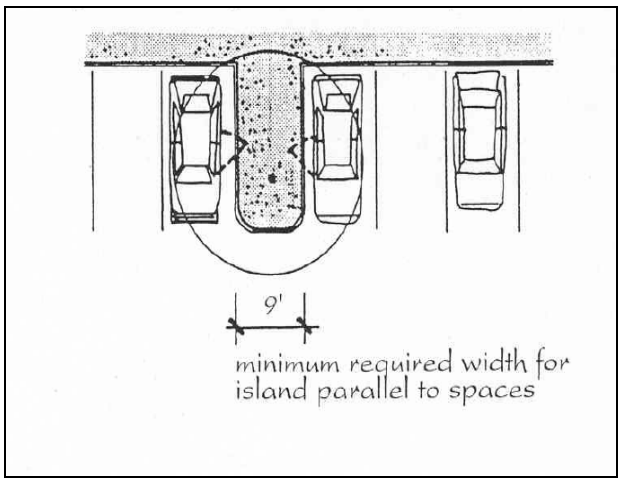

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Figure 3-9-7
Illustrative Interior Parking Lot Landscape Island

§ 3-9-6 LANDSCAPE BETWEEN BUILDINGS AND STREET RIGHT-OF-WAY

A landscape strip shall be required along the entire building frontage of any office, institutional, commercial or industrial building located within fifty (50) feet of a street right-of-way, between said building and the street right-of-way, except for approved pedestrian and vehicle access areas. For pedestrian retail districts or other areas where the requirements of this section may interfere with pedestrian access, a streetscape plan incorporating landscaping appropriate to the context, approved by the Arborist, may satisfy this requirement.

There shall be the following three (3) options that may be used singly or in any appropriate combination to comply with this code subsection, as proposed by the developer and approved by the Arborist.

Option 1. A minimum ten (10) foot wide landscape strip, with a minimum of one shade tree and 10 shrubs for every 35 feet of linear street frontage (Figure 3-9-8).

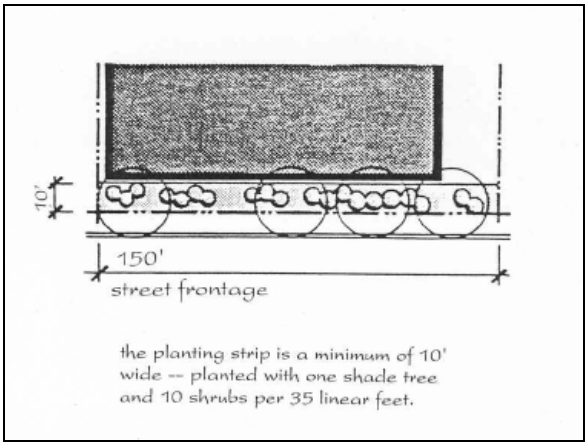

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Figure 3-9-8
Option 1, Landscape between Nonresidential Building and Street Right-of-Way

Option 2. A strip of varying width, but with a minimum of (ten) 10 feet and averaging at least (fifteen) 15 feet wide, with a minimum of one shade tree and 5 shrubs per 35 linear feet (Figure 3-9-9).

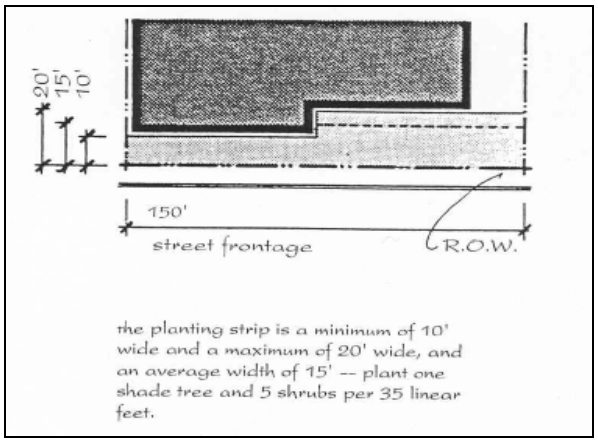

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Figure 3-9-9
Option 2, Landscape between Nonresidential Building and Street Right-of-Way

Option 3. Existing woodlands at least 25 feet wide (Figure 3-9-10).

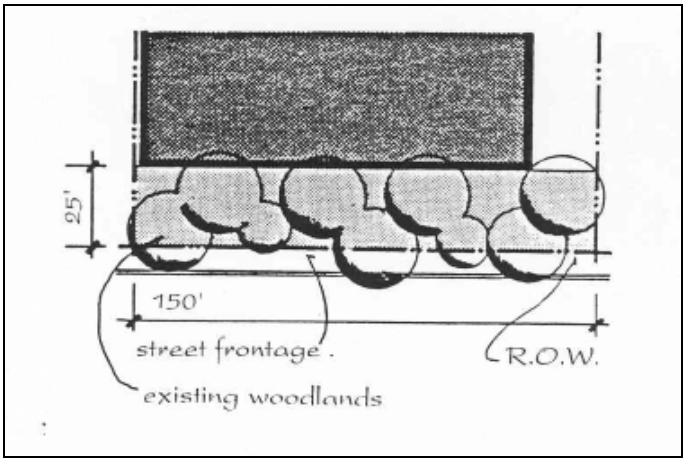

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Figure 3-9-10
Option 3, Landscape Between Nonresidential Building and Street Right-of-Way

§ 3-9-7 BUFFERS REQUIRED

Buffers for individual uses shall be provided according to the requirements of Table 3-9-1, as applicable, based on existing, adjoining uses.

Table 3-9-3
Minimum Required Buffer Width

	ADJOINING USE					
PROPOSED USE	**Single-Family, Detached**	**Single-Family Attached (Townhouses)**	**Multi-Family Residential**	**Office or Institutional**	**Commercial**	**Industrial**
Single-Family, Detached	None	None	None	None	None	None
Single-Family Attached (Townhouses)	10’	None	10’	20’	30’	40’
Multi-Family Residential	20’	10’	None	10’	20’	40’
Office or Institutional	20’	20’	10’	None	10’	30’
Commercial	30’	30’	20’	10’	None	20’
Industrial	40’	40’	40’	30’	20’	None

Commentary: Note that these buffer standards differ from those in the Section 3-2-7.3 and Table 6-1-2 of this Model Code. The buffer standards in Section 3-2-7.3 and Table 6-1-2 are generally more restrictive. Jurisdictions should use the standards that best suit their needs.

§ 3-9-8 SCREENING AND BUFFER SPECIFICATIONS

Screening shall be established within all buffers that are required by this Code, Section 3-9, along side and rear lot lines. The Arborist may require additional screening outside landscape strips and buffers that are required along side and rear lot lines, for purposes of obscuring features such as rear entrances, utility and maintenance structures, and loading facilities. Landscaping shall be used whenever possible to screen objectionable views or nuisances, such as service areas, refuse containers, air conditioning units, transformers, etc.

All required screening shall consist of shrubs and/or trees but may be supplemented with walls, fences or earth berms. Screening shall be of such nature and density to screen activities on the lot from view from the normal level of a first story window on an abutting lot and shall provide year-round maximum opacity from the ground to a height of at least six (6) feet. Trees and shrubs shall be installed to not only provide maximum opacity, but to allow for proper plant growth and maintenance.

To achieve maximum opacity within buffers, the following alternatives, or combination thereof, shall be considered by the applicant and applied, subject to the approval of the Arborist:

(a) Six-foot high evergreen screening shrubs planted four (4) feet on center.

(b) Tall evergreen trees stagger-planted with branches touching ground.

(c) Combination of small shrubs planted thirty inches (30") on center, small trees planted thirty (30) feet on center, and large trees planted forty (40) feet on center.

(d) Six-foot (6') high masonry wall.

In selecting materials and the size of plantings to be installed, the applicant and the Arborist shall consider the purpose of the landscape and the following required materials:

§ 3-9-9 GENERAL PROVISIONS

§ 3-9-9.1 Visibility. Landscaping shall not restrict visibility of motorists or pedestrians (e.g., tall shrubs or low-lying branches of trees).

§ 3-9-9.2 Clearance. Trees must have a clear trunk at least six (6) feet above finished grade to allow a safe clearance beneath the tree.

§ 3-9-9.3 Curb Stops. A curb or wheelstop shall be provided along interior parking lot landscape islands, perimeter landscape strips, and landscapes adjacent to street rights-of-way, to prevent cars from encroaching on trees, shrubs, and landscapes, as approved by the Arborist.

§ 3-9-10 LANDSCAPE PLAN

A landscaping plan approved by the Arborist shall be required prior to the issuance of a land use permit or building permit to demonstrate compliance with the provisions of this Code, Section 3-9. The landscape plan shall be based on an accurate boundary survey of the site or reasonable property description and shall include the following:

Purpose	**Materials**
Very dense sight barrier	Evergreen tre sight-obscurin fence
Visual separati on	Evergreen an deciduous tre shrubs

(a) Location and general type of existing vegetation;
(b) Existing vegetation to be saved;
(c) Methods and details for protecting existing vegetation during construction;
(d) Locations and labels for all proposed plants and a plant list or schedule showing the proposed and minimum required quantities;
(e) Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;

§ 3-9-11 APPROVAL OF LANDSCAPING AND OTHER MATERIALS

Approval of all landscaping and other materials by the Arborist shall be required. The Arborist shall have broad discretion in approving the specific types of landscaping and other materials provided in the landscape requirements of this Code Section 3-9. However, the following general guidance is provided and specific lists of approved species are provided in this Code, Section 3-9.

(a) The use of native plants as landscaping materials is encouraged wherever possible.
(b) Invasive or potentially invasive plants are not permitted. However, well-mannered non-native plants are acceptable if they are not considered invasive.
(c) Existing tree cover and natural vegetation shall be preserved, whenever possible, or replaced with suitable vegetation.
(d) Ground cover(s) should be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns, which would require regular watering in drought conditions.
(e) Grass areas shall be sodded. However, if grass seed must be used, it shall be a variety suitable to the area that produces complete coverage.
(f) No artificial plants, trees, or other vegetation shall be installed.

Commentary: The local government should consider the aesthetic impacts of walls, fences and berms optionally permitted by this ordinance. It should determine whether decisions regarding landscaping and other features should be left to the administrative officer (Arborist), or whether

a Design Review Board should be assigned authority to review and approve plans for such features (see Section 5-2, "Design Review," of the Model Code for guidance).

Commentary: No exhaustive list of invasive and potentially invasive plants exists. However, the Georgia Exotic Pest Plant Council and the Florida Exotic Pest Plant Council both maintain lists that are excellent resources (available on-line at http://www.gaeppc.org/exotalk1.html and http://www.fleppc.org/01list.html respectively). To supplement these lists, it is useful to conduct a brief Internet search on the species using both scientific and common names (e.g., using search terms such as "Pueraria montana invasive" and "kudzu invasive") to verify whether a reputable source identifies the plant as potentially invasive).

§ 3-9-12 TREE PLANTING GUIDELINES

(a) Only healthy trees with a well developed root system and a well formed top, characteristic of the species, should be planted.

(b) Trees selected for planting must be compatible with the specific site conditions.

(c) The ability of a species to regenerate a new root system and to become reestablished should be considered. Generally, deciduous trees should be planted in the fall after leaf drop, or in early spring before bud break. There are indications that bare root trees will re-establish more readily if planted in early spring just prior to bud break.

(d) Trees should not be planted deeper than they were in their former location or container.

(e) Once the transplanted tree is set, the hole should be backfilled with soil of good texture and structure. Backfill material should be comprised of a mix of native soil, organic matter such as peat, and inorganic material such as pearlite or vermiculite in a 1:1:1 ratio, although a back fill with native soil alone may be adequate.

(e) The addition of fertilizer to backfill soil can cause root injury and is therefore not recommended. If fertilizer must be added, a small amount should be used. Approximately 1.5 pounds of nitrogen per cubic yard of back fill is recommended for bare root plants, and 2.5 pounds of nitrogen per cubic yard of back fill for balled and burlaped trees.

(f) The back fill should be gently tamped (but not compacted) and soaked for settling. The soil should be slightly mounded to allow for settling; a ridge or dike around the perimeter of the hole can facilitate watering.

(g) Pruning. The amount of pruning necessary for newly planted trees depends upon the trees' response to planting. A decrease in leaf surface area from pruning can result

in a reduction of the production of food, thus ultimately inhibiting root development. Pruning for vigor or to train young trees should therefore be delayed until after the first growing season.

(h) Staking should be used on newly planted trees only where determined necessary. The extent of staking will depend upon tree strength, form and condition at planting, expected wind conditions, the amount of vehicle or foot traffic and the level of follow-up maintenance. Staking can cause tree damage. Periodic follow-up inspections are required to prevent serious treestaking problems. Staking should be removed as soon as the tree is capable of providing its own anchorage and support.

(i) Mulching newly planted trees will reduce competition from weeds and moderate soil moisture and temperature extremes.

(j) Trees selected for planting must be free from injury, pests, disease or nutritional disorders.

(k) Trees selected for planting must be free of root defects.

§ 3-9-13 LANDSCAPE MAINTENANCE AND LANDSCAPE BOND

The owner, occupant, tenant and respective agent of each, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping required to be installed pursuant to this Code, Section 3-9. Prior to issuance of a certificate of occupancy, the developer or owner shall post a performance bond or cash escrow guaranteeing all landscaping materials and work for a period of two (2) years after approval or acceptance thereof by the city in a sum established by the Arborist. The bond will be in the amount of 100 percent of the estimated cost of replacing all of the landscaping required by these specifications, unless otherwise specified by the Arborist. At the end of two years, the Arborist shall make an inspection and notify the owner or developer and the bond company of any corrections to be made. If no maintenance is required, or if maintenance is provided by said responsible party, the Arborist shall release the bond.

§ 3-9-14 LISTS OF APPROVED LANDSCAPING MATERIALS

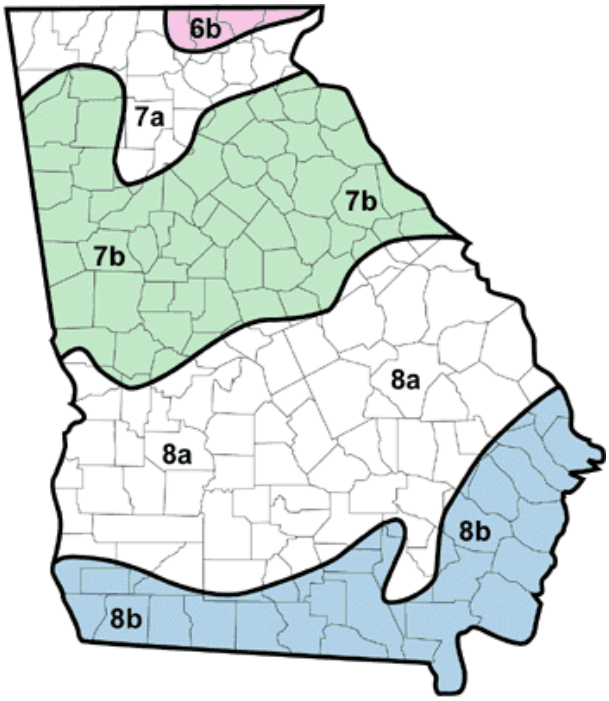
Commentary: The following lists of plants and trees are adapted from Corley et al. 1999 and Garber and Ruter 2002, but modified to exclude invasive and potentially invasive species.

This list categorizes plants that require a minimal amount of care by mature plant size and landscape uses. The taxa are also classified according to tolerance of poor, infertile soils; wet, poorly drained sites; dry, well-drained sites; urban stress; salts; and shade. In cases where shade tolerance is indicated, plants grow best in some degree of shade. Each entry in the list is shown as evergreen or deciduous or variation thereof. Hardiness, or climatic zone adaptation, is indicated in the taxa column.

Other low-maintenance plants may be appropriate for inclusion, but in no case should invasive species be placed on the list. Note that not all plants are equally suitable for every part of the state. Local county cooperative extension offices can provide assistance and suggestions to help tailor the list to the individual jurisdiction. Communities should modify the recommended plant list based on planting experiences in the local landscape where possible. Moreover, the list should be modified to include, and emphasize, native plants that do well in the jurisdiction in question.

Commentary on Georgia's Hardy Zones: The plant hardiness zones (see map) denote areas in the state where a plant has the best chance of survival and growth. The zones are based on the average minimum temperature the plant will tolerate. The numbers and letters in parentheses are the zone designations used in the reference publication. Note that, in virtually every case, the entries in the list are appropriate statewide.

Plant Hardiness Zones for Georgia



Source: USDA Plant Hardiness Zone Map, Miscellaneous Publication No. 1475, Agricultural Research Service, 1990.

§ 3-9-14.1 Vines

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

§ 3-9-14.2 Ground Covers

Ground Covers							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Aspidistra elatior/ 8a-8b; Cast-Iron Plant	X		X		X	X	Evergreen
Cyrtomium falcatum/ 8a-8b; Holly Fern		X		X		X	Evergreen
Helleborus orientalis/ 6b-8b; Lenten Rose	X	X				X	Evergreen
Hemerocallis spp./ 6b-8b; Daylily	X	X	X	X	X	X	Deciduous
Hosta spp./6b-8b; Plantain Lily		X		X		X	Deciduous
Hypericum calycinum/ 6b-8b; Aaronsbeard (St. Johnsort)	X		X	X			Evergreen - Deciduous
Iberis sempervirens/ 6b-8b; Candytuft	X		X	X		X	Evergreen
Juniperus conferta/ 6b-8b; Shore Juniper	X		X	X	X		Evergreen
Liriope muscari/ 6b-8b; Lily Turf	X				X	X	Evergreen
Liriope spicata/6b-8b; Creeping Lily Turf	X			X	X	X	Evergreen
Ophiopogon jaburan/ 6b-8b; Snakesbeard	X		X		X	X	Evergreen
Ophiopogon japonicus/ 6b-8b; Mondo Grass	X			X		X	Evergreen
Pachysandra procumbens/ 6b-8b; Alleghany Pachysandra				X		X	Semi-Evergreen
Pachysandra terminalis/ 6b-8b; Japanese Spurge	X			X		X	Evergreen
Paxistima canbyi/ 6b-8b; Rat-stripper	X						Evergreen
Phlox subulata/ 6b-8b; Thrift	X		X	X			Evergreen
Rosa wichuraiana/ 6b-8b; Memorial Rose	X			X			Semi-Evergreen
Rosmarinus officinalis/ 6b-8b; Rosemary	X		X				Evergreen
Santolina chamaecyparissus/ 6b-8b; Lavender Cotton	X		X		X		Evergreen
Santolina virens/ 6b-8b; Green Santolina	X		X		X		Evergreen
Sarcocca hookerana humilis/ 6b-8b; Small Himalyan Sarcocca			X			X	Evergreen
Sedum acre/6b-8b; Gold Moss Stonecrop	X		X	X		X	Evergreen
Sedum spectabile/ 6b-8b; Gold Moss Stonecrop	X		X	X		X	Evergreen

§ 3-9-14.3 Shrubs 1 - 4 Feet

Shrubs 1-4 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Abelia x grandiflora/ 6b-8b; Dwarf Abelia	X		X	X	X		Evergreen
Berberis candidula/ 6b-8b; Paleleaf Barberry	X		X	X		X	Evergreen
Berberis verruculosa/ 6b-8b; Warty Barberry	X			X		X	Evergreen
Ceanothus americanus/ 6b-8b; Wild Snowball (New Jersey Tea)	X		X			X	Deciduous
Danae racemosa/ 6b-8b; Alexandrian Laurel		X				X	Evergreen
Deutzia gracilis/ 6b-8b; Slender Deutzia	X		X	X			Deciduous
Euonymus japonicus 'Microphyllus' / 6b-8b; Dwarf Japanese Euonymus		X			X	X	Evergreen
Hesperaloe parviflora/ 6b-8b; Red Yucca	X		X				Evergreen
Hydrangea arborescens 'Grandiflora'/ 6b-8b; Snowhill Hydrangea		X				X	Deciduous
Hypericum kalmianum/ 6b-8b; Kalm St. John's-Wort	X		X	X			Deciduous
Hypericum patulum/ 6b-8b; St. John's-Wort	X		X	X			Semi-Evergreen
Hypericum prolificum/ 6b-8b; Shrubby St. John's-Wort	X		X	X			Deciduous
Ilex cornuta 'Rotunda'/ 6b-8b; Dwarf Chinese Holly	X				X	X	Evergreen
Ilex crenata radicans/ 6b-8b; Japanese Holly	X		X	X			Evergreen
Ilex vomitoria 'Nana'/ 6b-8b; Dwarf Yaupon			X		X	X	Evergreen
Jasminum nudiflorum/ 6b-8b	X		X	X			Deciduous
Juniperus davurica 'Parsoni'/ 6b-8b; Parsons Juniper	X		X	X			Evergreen
Lavandula officinalis/ 6b-8b; English Lavender			X				Evergreen
Leucothoe axillaris/ 6b-8b; Coastal Leucothoe		X				X	Evergreen
Leucothoe fontanesiana/ 6b-8b; Drooping Leucothoe		X				X	Evergreen
Ligustrum japonicum 'Rotundifolium'/ 6b-8b; Curlyleaf Ligustrum	X				X	X	Evergreen
Lonicera pileata/ 6b-8b; Privet Honeysuckle	X		X				Semi-Evergreen
Potentilla fruticosa/ 6b-8b; Bush Cinquefoil	X			X			Deciduous

Shrubs 1 - 4 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Ruscus aculeatus/ 6b-8b; Butcher's Broom	X		X	X		X	Evergreen
Skimmia reevesiana/ 6b-8b; Reeves Skimmia		X				X	Evergreen
Spiraea x bumalda; Bumald Spirea	X		X	X			Deciduous
Spiraea nipponica 'Snowmound' / 6b-8b; Snowmound Nippon Spirea	X		X	X			Deciduous
Xanthorhiza simplicissima/ 6b-8b; Yellowroot	X	X	X	X		X	Semi-Evergreen
Yucca filamentosa/ 6b-8b; Adams Needle Yucca	X		X	X	X		Evergreen

§ 3-9-14.4 Shrubs 4 - 6 Feet

Shrubs 4-6 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Abelia x grandiflora/ 6b-8b; Glossy Abelia	X		X	X	X		Evergreen
Cephalanthus occidentalis/ 6b-8b; Buttonbush		X					Deciduous
Chaenomeles speciosa/ 6b-8b; Flowering Quince	X		X				Deciduous
Clethra alnifolia/ 6b-8b; Summersweet Clethra		X			X	X	Deciduous
Dirca palustris/ 6b-8b; Leatherwood		X				X	Deciduous
Euonymus americanus/ 6b-8b; American Strawberry Bush	X		X			X	Deciduous
Fatsia japonica/ 8a-8b; Japanese Fatsia	X	X			X	X	Evergreen
Hamamelis vernalis/ 6b-8b; Vernal Witch-Hazel	X	X	X	X			Deciduous
Hydrangea macrophylla/6b-8b; Bigleaf Hydrangea					X	X	Deciduous
Hydrangea quercifolia/ 6b-8b; Oakleaf Hydrangea	X	X				X	Deciduous
Ilex crenata 'Compacta'/ 6b-8b; Compacta Japanese Holly				X		X	Evergreen
Jasminum floridum/ 8a-8b; Flowering Jasmine	X		X		X		Evergreen
Juniperus squamata 'Meyeri' / 6b-8b; Singleseed Juniper	X		X	X	X		Evergreen
Mahonia aquifolium/6b-8b; Oregon Grape Holly	X			X		X	Evergreen
Opuntia spp./ 6b-8b; Prickly Pear	X		X		X		Evergreen
Pieris floribunda/ 6b-8b; Mountain Andromeda				X		X	Evergreen
Pieris japonica/ 6b-8b; Japanese Andromeda				X		X	Evergreen
Raphiolepis umbellata/8a-8b; Yedda Hawthorn	X		X	X	X		Evergreen
Rhododendron carolinianum / 6b-8b; Carolina Rhododendron		X				X	Evergreen
Rhodotypos scandens/ 6b-8b; Black Jetbead	X		X	X		X	Deciduous
Rhus aromatica/ 6b-8b; Fragrant Sumac	X		X	X			Deciduous
Spiraea cantoniensis/ 6b-8b; Reeves Spirea	X			X			Deciduous
Spiraea thunbergii/ 6b-8b; Thunberg Spirea	X		X	X			Deciduous
Spiraea x vanhouttei/ 6b-8b; Vanhoutte Spirea	X		X	X			Deciduous
Taxus cuspidata/ 6b-8b; Japanese Yew	X			X		X	Evergreen
Viburnum acerifolium/ 6b-8b; Mapleleaf Viburnum			X	X		X	Deciduous
Viburnum carlesii/ 6b-8b; Koreanspice Viburnum			X				Deciduous

Shrubs 4 - 6 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Viburnum suspensum/ 8a-8b; Sandankwa Viburnum	X				X	X	Evergreen
Yucca gloriosa/ 6b-8b; Mound Lily Yucca	X		X	X			Evergreen

§ 3-9-14.5 Shrubs 6 -12 Feet

Shrubs 6-12 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Aesculus parviflora/ 6b-8b; Bottlebrush Buckeye		X				X	Deciduous
Aronia arbutifolia/ 6b-8b; Red Chokeberry	X	X	X				Deciduous
Calycanthus floridus/ 6b-8b; Sweetshrub	X		X	X		X	Deciduous
Chimonanthus praecox/ 6b-8b; Wintersweet	X		X	X			Semi- Evergreen
Chionanthus virginicus/ 6b-8b; Fringetree			X	X			Deciduous
Cleyera japonica/ 6b-8b; Cleyera (Ternstroemia)			X			X	Evergreen
Cornus amomum/ 6b-8b; Silky Dogwood		X	X			X	Deciduous
Cornus racemosa/ 6b-8b; Gray Dogwood		X	X			X	Deciduous
Cornus sericea/ 6b-8b; Red-osier Dogwood	X	X		X		X	Deciduous
Cotinus obovatus/ 6b-8b; American Smoketree	X		X	X			Deciduous
Cyrilla racemiflora/ 6b-8b; Leatherwood		X					Evergreen
Deutzia scabra/ 6b-8b; Fuzzy Deutzia	X		X	X			Deciduous
Exochorda racemosa/ 6b-8b; Pearlbush	X		X	X			Deciduous
Feijoa sellowiana/ 8a-8b; Pineapple Guava			X		X		Semi- Evergreen
Forsythia x intermedia/ 6b-8b; Border Forsythia	X		X	X	X		Deciduous
Hamamelis virginiana/ 6b-8b; Common Witch Hazel		X	X	X		X	Deciduous
Hibiscus syriacus/ 6b-8b; Rose of Sharon	X	X	X	X	X		Deciduous
Ilex glabra/ 6b-8b; Inkberry Holly		X			X		Evergreen

Shrubs 6 - 12 Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Viburnum x rhytidophylloides/ 6b-8b; Lantanaphyllum Viburnum	X			X			Semi-Evergreen
Viburbnum rhytidophyllum/ 6b-8b; Leatherleaf Viburnum		X				X	Evergreen
Vitex agnus-castus/ 6b-8b; Chaste Tree	X		X		X	X	Deciduous
Weigela florida/ 6b-8b; Weigela	X			X			Deciduous
Yucca aloifolial/ 8a-8b; Spanish Bayonet	X		X	X	X		Evergreen

§ 3-9-14.6 Small Trees 15 - 40 Feet

(Note: soils and urban stress information was not included in some of the source data. However, these trees can generally tolerate urban stress and soils.)

Small Trees 15 - 40 Feet					
Taxa/Zone	**Tolerant to:**				
	Wet sites	**Dry sites**	**Salt**	**Shade**	**Evergreen or Deciduous**
Acer buergeranum/ 6b-8b; Trident Maple*	-	X	-	-	Deciduous
Acer campestre/ 6b-8b; Hedge Maple		X			Deciduous
Acer floridanum/6b-8b; Florida Maple				X	Deciduous
Acer griseum/ 6b-8b; Paperbark Maple					Deciduous
Acer palmatum/ 6b-8b; Japanese Maple*		X		X	Deciduous
Acer tataricum/6b-8b; Tatarian Maple		X			Deciduous
Acer truncatum/ 6b-8b; Purpleblow Maple		X			Deciduous
Amelanchier arborea/ 6b-8b; Downy Serviceberry					Deciduous
Amorpha fruticosa/ 6b-8b; Indigobush Amorpha		X			Deciduous
Asimina triloba/ 6b-8b; Common Pawpaw	X		X		Deciduous
Bumelia lanuginosa/ 6b-8b; Chittamwood		X		X	Deciduous
Carpinus caroliniana/ 6b-8b; American Hornbeam	X			X	Deciduous
Chioanthus retusus/ 6b-8b; Chinese Fringetree*		X		X	Deciduous
Chioantus virginicus/ 6b-8b; White Fringetree or Grancy Gray-Beard*		X		X	Deciduous
Cornus florida/ 6b-8b; Flowering Dogwood*				X	Deciduous
Cornus mas/6b-8b; Corneliancherry Dogwood					Deciduous
Davidia involucrata/ 6b-8b; Dove Tree				X	Deciduous
Eriobotrya japonica/ 8a-8b; Loquat			X		Evergreen
Evodia daniellii/ 6b-8b; Korean Evodia		X			Deciduous

Small Trees 15 - 40 Feet					
Taxa/Zone	**Tolerant to:**				
	Wet sites	**Dry sites**	**Salt**	**Shade**	**Evergreen or Deciduous**
Halesia carolina/ 6b-8b; Carolina Silverbell	X	-	-	X	Deciduous
Halesia diptera var. *magniflora/* 6b-8b; Two-winged Carolina Silverbell*				X	Deciduous
***Ilex cassine*/ 6b-8b; Dahoon	X	-	X	-	Evergreen
Ilex decidua/ 6b-8b; Possum Haw	X	X	-	-	Deciduous
Ilex vomitoria/7-8; Yaupon Holly*		X		X	Evergreen
Ilex myrtifolia/ 6b-8b; Myrtle-leaved Holly	X		X		Evergreen
Ilex opaca cvs./ 6b-8b; American Holly	X		X	X	Evergreen
Ilex x attenuata/ 6b-8b; Savannah Holly**					Evergreen
Koelreuteria bipinnata/ 6b-8b; Chinese Flame Tree	-	X	X	-	Deciduous
Koelreuteria paniculata/ 6b-8b; Golden Raintree	-	X	-	-	Deciduous
Lagerstroemia indica/ 6b-8b; Crape Myrtle*	-	X	X	-	Deciduous
Maclura pomifera/6b-8b; Osage Orange	X	X	-	-	Deciduous
Magnolia grandiflora/ 7-8; Little Gem Magnolia*					Evergreen
Magnolia x soulangiana/ 6b-8b; Saucer Magnolia	X		-	-	Deciduous
Magnolia stellata/ 6b-8b; Star Magnolia*	-	-	-	-	Deciduous
Magnolia virginiana/ 6b-8b; Sweetbay Magnolia	X	-	-	X	Semi-Evergreen
Myrica cerifera/ 7-8; Southern Waxmyrtle*	X	X	X	X	Evergreen
Osmanthus americanus/ 6b-8b; Devilwood or Wild Olive*		X			Evergreen
Ostrya virginiana/ 6b-8b; American Hophornbeam*		X		X	Deciduous
Parrotia persica/ 6b-8b; Persian Parrotia	-	-	-	-	Deciduous
Pinus virginiana/ 6b-8b; Virginia Pine	-	X	X	-	Evergreen
Photinia serratifolia/ 7-8; Chinese or Oriental Photinia*		X			Evergreen

Small Trees 15 - 40 Feet					
Taxa/Zone	**Tolerant to:**				
	Wet sites	**Dry sites**	**Salt**	**Shade**	**Evergreen or Deciduous**
Prunus campanulata cross with Prunus incisa/ 6b-8b; Okame Cherry*					Deciduous
Prunus caroliniana/6b-8b; Cherry Laurel	-	X	X	-	Evergreen
Prunus mume/ 6b-8b; Japanese Apricot*					Deciduous
Prunus x yedoensis/ 6b-8b; Yoshino Cherry	-	-	-	-	Deciduous
Pterocarya fraxinifolia/ 6b-8b; Caucasian Wingnut	X	X	-	-	Deciduous
Quercus myrsinifolia/ 6b-8b; Chinese Evergreen Oak	-	X	-	-	Evergreen
Rhus copallina/ 6b-8b; Flameleaf Sumac	-	X	-	-	Deciduous
Sabal palmetto/ 8; Cabbage Palm*	X	X	X	X	Evergreen
Vaccinium arboreum/ 7-8; Farkleberry*		X		X	Deciduous
Vitex agnus-castus/ 7-8; Chastetree*		X			Deciduous

** = Trees noted with an asterisk (*) are recommended by Garber and Ruter (2002) as small trees for use in landscape ordinances in Georgia.*

*** = several other types of holly species, cultivars, and hybrids may be appropriate, for example, Nellie R. Stevens holly and East Palatka holly.*

§ 3-9-14.7 Large Trees 40+ Feet

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

Large Trees 40+ Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Metasequoia glyptostroboides/ 6b-8b; Dawn Redwood	X		X				Deciduous
Morus rubra/ 6b-8b; Red Mulberry	X		X	X			Deciduous
Nyssa sylvatica/ 6b-8b; Black Tupelo	X	X					Deciduous
Ostrya virginiana/ 6b-8b; American Hophornbeam	X		X	X			Deciduous
Populus alba/ 6b-8b; White Poplar	X	X	X	X	X		Deciduous
Quercus acutissima/ 6b-8b; Sawtooth Oak	X		X	X			Deciduous
Quercus alba/6b-8b; White Oak			X				Deciduous
Quercus bicolor/ 6b-8b; Swamp Oak	X	X		X			Deciduous
Quercus coccinea/ 6b-8b; Scarlet Oak	X			X			Deciduous
Quercus falcata/ 6b-8b; Southern Red Oak	X		X	X			Deciduous
Quercus imbricaria/ 6b-8b; Shingle Oak			X	X			Deciduous
Quercus laurifolia/ 6b-8b; Laurel Oak	X	X		X	X		Deciduous
Quercus lyrata/ 6b-8b; Overcup Oak	X	X	X				Deciduous
Quercus macrocarpa/ 6b-8b; Bur Oak	X		X	X			Deciduous
Quercus marilandica/ 6b-8b; Blackjack Oak	X		X	X			Deciduous
Quercus muehlenbergii/ 6b; Chinquapin Oak	X		X	X			Deciduous
Quercus nigra/ 6b-8b; Water Oak	X	X	X	X	X		Deciduous
Quercus palustris/ 6b-8b; Pin Oak		X	X	X			Deciduous
Quercus phellos/ 6b-8b; Willow Oak		X		X			Deciduous
Quercus prinus/ 6b-8b; Chestnut Oak		X	X				Deciduous
Quercus robur/6b-8b; English Oak		X					Deciduous
Quercus rubra/6b-8b; Northern Red Oak	X		X	X			Deciduous

Large Trees 40+ Feet							
Taxa/Zone	**Tolerant to:**						
	Poor soils	**Wet sites**	**Dry sites**	**Urban stress**	**Salt**	**Shade**	**Evergreen or Deciduous**
Quercus shumardii/ 6b-8b; Shumard Oak	X		X	X			Deciduous
Quercus stellata/ 6b-8b; Post Oak	X		X	X			Deciduous
Quercus velutina/ 6b-8b; Black Oak		X	X				Deciduous
Quercus virginiana/ 8a-8b; Live Oak	X	X	X	X	X	X	Evergreen
Sophora japonica/ 6b-8b; Japanese Pagodatree			X	X			Deciduous
Taxodium ascendens/6b-8b; Pond Cypress	X	X	X				Deciduous
Taxodium distichum/ 6b-8b; Bald Cypress	X	X	X	X			Deciduous
Tilia americana/6b-8b; American Linden			X	X			Deciduous
Tilia cordata/6b-8b; Littleleaf Linden				X			Deciduous
Ulmus parvifolia/ 6b-8b; Lacebark Elm	X		X	X			Deciduous
Zelkova serrata/ 6b-8b; Japanese Zelkova	X		X	X			Deciduous
Ziziphus jujuba/ 6b-8b; False Date	X		X				Deciduous

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3-10 RESIDENTIAL INFILL DEVELOPMENT

§ 3-10 RESIDENTIAL INFILL DEVELOPMENT

Commentary on the Need for Infill Development Regulations: Land development is often focused in areas where large tracts of land are available, such as in the urban fringe. This emphasis on fringe development has encouraged low-density sprawl and the neglect and decay of developed areas in some urban/suburban areas. Infill policies shift some of the attention to development in existing urban/suburban areas in order to make efficient use of vacant and underutilized lands. There are substantial local constraints to infill development, such as:

(1) Physical challenges of remaining vacant land. Lots that are passed by in the first wave of development are usually those that are more difficult to develop, because of size, shape, configuration, topography or other physical constraints. Land use regulations for infill development must take the unique physical constraints of infill lots into account.

(2) Neighborhood opposition. Residents of already developed areas may perceive higher density, residential infill development as a threat to the quality of their neighborhood and they are therefore likely to oppose infill development. Land use regulations need to anticipate neighbor opposition to infill development proposals and address their concerns. The primary ways neighbor opposition can be mitigated are through by-right development provisions and design controls.

(3) Regulatory constraints. Low densities and minimum lot specifications can make it difficult to develop infill lots at densities recommended in local comprehensive plans and/or land use regulations. To encourage infill development, special regulations may be needed that allow more flexible lot configurations. Infill development strategies seek to eliminate or modify land-use regulations that may constrain infill development objectives.

(4) Lack of supporting market conditions. There may be a lack of a market for infill development. As an urban or suburban area grows, however, the market for higher-intensity development in accessible areas improves. Population growth and changes in the composition of households may indicate a demand for infill development. Relevant changes in demographics include trends toward older households (as the baby-boomers age), smaller families, single-parent families and singles. A strong market for infill development is a virtual necessity.

(5) Lengthy or cumbersome development approval processes. Land use regulations can also help create supportive market conditions by ensuring that the development review process is streamlined (and where appropriate, incentives are provided) for compatible infill development. An objective of infill development strategies is to reduce any excessive time constraints in gaining project approvals. Reducing the time in land use approval and permitting will reduce the costs of development and construction and will thus encourage infill development. Time is valuable to everyone but especially to developers, who

often have large amounts of money tied up in potentially risky projects. Local agencies can encourage infill development by taking the steps necessary to reduce excessive delays in permitting (EcoNorthwest 1995).

Commentary: When This Module Applies: This module assumes that a local government has significant vacant or underutilized land in established residential areas, and that it desires to see those vacant or underutilized residential parcels developed to achieve an efficient, compact, contiguous form of development. This module focuses on residential infill development and is particularly relevant to established residential areas with dwellings that do not contain garages.

To implement this module, local governments need to have already determined what infill lots and underutilized lands exist in the community. It is strongly suggested that the local government's comprehensive plan contain policies that support residential infill development. If these conditions do not exist, it is considered premature to apply this module.

This module is written in a way to complement Code, Section 6-1, "Land Use Intensity Districts and Map." The residential infill development regulations contained in this module are particularly appropriate for encouraging development on infill lots in SR (Suburban Residential) and UR (Urban Residential) land use intensity districts. It is therefore written in a way that is compatible with the language of that Code section. This module is also written in a way to be compatible with subdivision and land development regulations of the Model Code (see Code, Section 2-2).

Commentary on Alternatives: There are at least two alternatives for applying residential infill development regulations. Residential infill regulations can be added to existing zoning or land use intensity district regulations. For instance, they might be made applicable to all properties designated SR and UR on the land use intensity district map (see 6-1 of the Model Code). Because these regulations may or may not be accepted in every part of the community, however, it makes sense to apply this module in a more

limited context. That is, these special regulations are probably better applied only to infill opportunity areas that have been designated as an overlay district. This module follows the second approach. A third alternative is to prepare and adopt a specific development plan for the areas where infill development is desired. For example, see the downtown specific plan module (5-1) in this Model Code.

Commentary on Methods to Determine Infill Development Capability: Jurisdictions should first identify areas suitable for infill and redevelopment and include those areas in their buildable land inventory (if they have one). Criteria for determining infill target areas include low neighborhood resistance, a relatively strong existing market and an excess capacity in public facilities. Planners should identify the potential number of parcels suitable for infill development, including all vacant, potentially buildable (underutilized) land in the urban/suburban area. Existing zoning and geographic constraints should be determined for identified potential infill lots. The number of potential lots that can be subdivided from vacant parcels should be determined based on minimum lot size requirements. Potential lots can also be assigned to developed parcels if the size, location of improvements, existing development and physical configuration would allow the parcel to be subdivided into two or more lots. Areas with low-value development on relatively large lots are probably candidates for infill development.

§ 3-10-1 PURPOSE AND INTENT

This Ordinance is intended to ensure neighborhood compatibility, maintain harmony and character of existing residential areas, and ensure residential infill development occurs in an orderly and desirable manner. It is also intended to:

(a) Allow flexibility in housing type, location, lot width and vehicle access to facilitate infill development.

(b) Provide development standards and guidelines to promote compatibility between existing and new development.

(c) Eliminate regulatory constraints (e.g., restrictive zoning) to residential infill development and establish public processes and regulations that will reduce neighborhood resistance to infill and redevelopment.

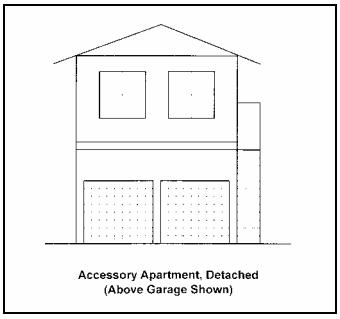
(d) Achieve other intentions as more specifically described in this Ordinance.

§ 3-10-2 DEFINITIONS

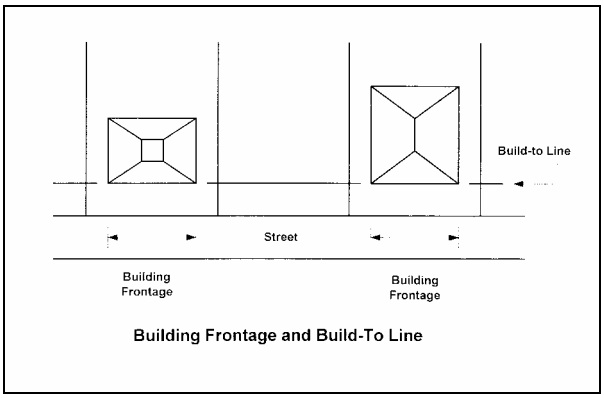
Accessory apartment, attached: A second dwelling unit that is added to the structure of an existing site-built single family dwelling, for use as a complete, independent living facility for a single household, with provision within the attached accessory apartment for cooking, eating, sanitation and sleeping.

Accessory apartment, detached: A second dwelling unit that is added to an existing accessory structure (e.g., residential space above a detached garage), or as a new freestanding accessory

building, for use as a complete, independent living facility for a single household, with provision within the detached accessory apartment for cooking, eating, sanitation and sleeping.



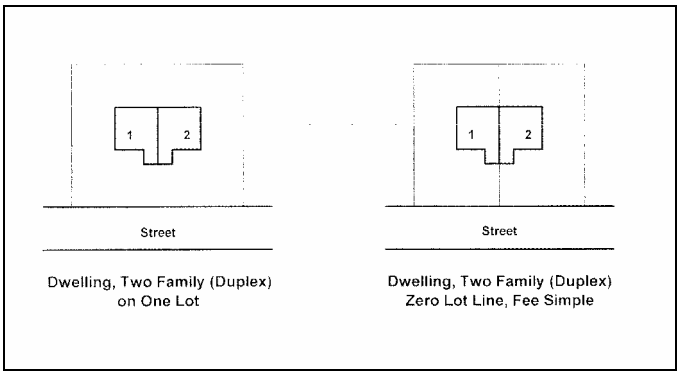
Build-to-line: A condition of setbacks in which a continuous building line creates a consistent street edge with the intent of providing a positive visual image to pedestrians and motorists.



Building Frontage and Build-To Line

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict. With regard to buildings, harmony in appearance of architectural features in the same vicinity.

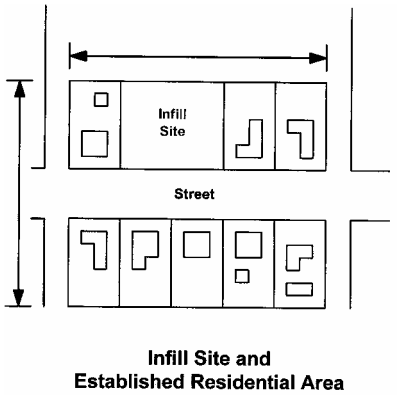
Dwelling, two-family (duplex): A building designed or arranged to be occupied by two (2) families or households living independently of each other.



Dwelling, Two Family (Duplex) on One Lot

Dwelling, Two Family (Duplex) Zero Lot Line, Fee Simple

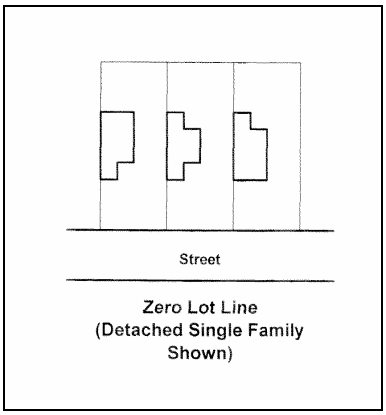
Established residential area: The area containing dwellings within the block of land proposed for infill residential development and the block of land across the street from the proposed development.



Infill Site and Established Residential Area

Lot, corner: A lot abutting upon two or more streets at their intersection.
Lot width: The horizontal distance between side lot lines measured at the minimum required front yard (regulatory front building set back) line.

Zero lot line: The location of a building on a lot in such a manner that one or more building sides have no (zero) side or rear building setback (or yard requirements) and rests directly on a side or rear lot line. A zero lot line development is one where houses in the development on a common street frontage are shifted to one side of their lots.



§ 3-10-3 RESIDENTIAL INFILL OVERLAY DISTRICT

There is established a residential infill overlay district as shown on the attached map which is hereby made a part of this ordinance. Said map may be amended by the local government by following procedures specified in the Zoning Procedures Law, O.C.G.A. 36-66.

§ 3-10-4 APPLICABILITY AND GENERAL PROVISIONS

(a) This Ordinance shall apply to development within the residential infill overlay district.

(b) No lot shall hereafter be created or approved as part of a subdivision, except in compliance with this Ordinance, if applicable.

(c) No building permit for a new dwelling shall be issued except in compliance with this Ordinance, if applicable.

(d) No building permit for a remodel of an existing dwelling which would increase the existing floor area by more than twenty-five percent (25%), or which would add a garage, shall be issued except in accordance with the applicable requirements of this Ordinance, if applicable.

§ 3-10-5 PERMITTED USES

The following residential uses, which are not allowed outright in SR, Suburban Residential, and UR, Urban Residential land use intensity district(s), shall be permitted in the residential infill overlay district.

(a) Two-family dwelling (duplex) on a corner lot only.

(b) Zero lot line housing, single-family detached, provided that when a zero lot line dwelling shares a property line with a non-zero lot line dwelling, the zero lot line dwelling shall be setback a minimum of ten (10) feet from said shared property line.

(c) Accessory apartments, attached and detached, subject to the following:

1. Only one attached accessory apartment shall be permitted on a lot and an accessory apartment shall not be permitted in conjunction with a home occupation.
2. One additional off-street parking space is required and shall be provided, which must be located in a side or rear yard.
3. At least four hundred (400) square feet of heated floor area shall be provided per occupant. The heated floor area for an accessory apartment shall be at least 400 square feet and shall not exceed 1,000 square feet or the size of the principal dwelling, whichever is less.
4. Any additions to accommodate accessory apartments shall have exterior finishes or architectural treatments (e.g., brick, wood, stucco, etc.) of an appearance substantially similar to those on the principal dwelling.
5. The _____ 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.
6. Unless incorporated into an existing accessory structure (e.g., garage), detached accessory apartments shall be allowed in rear yards only and shall be setback a minimum of fifteen (15) feet from any property line.
7. To ensure that infill development permissions do not unintentionally encourage the conversion of stable residential neighborhoods to disproportionately renter-occupied status, either the primary residence or the accessory apartment shall be occupied by the owner of the property.

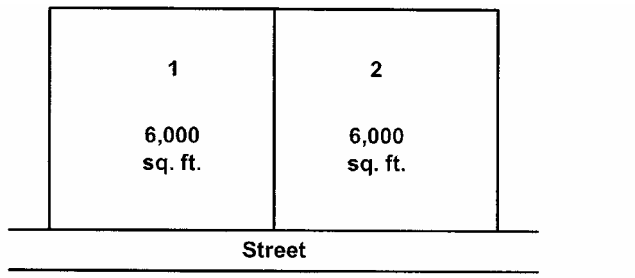
Commentary: The land use intensity districts referenced in this Code section are adopted in Section 6-1 of the Model Land Use Management Code. Jurisdictions not adopting that Code section must substitute the names of appropriate districts it has adopted.

§ 3-10-6 LOT REQUIREMENTS

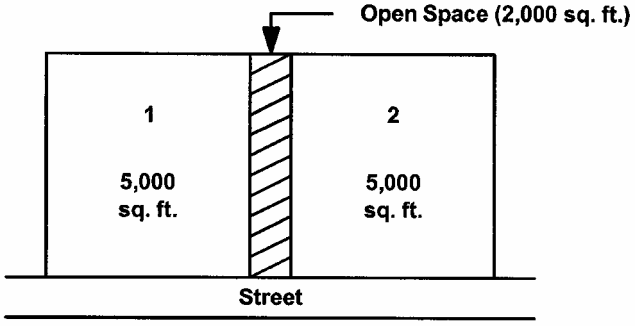
§ 3-10-6.1 Intent. This Code Section is intended to ensure that new lots platted in established residential areas are similar in size (lot area) as existing lots. It is also intended to provide for smaller lots (density bonuses) when open space is provided, and in cases where justified, through lot size averaging.

§ 3-10-6.2 Maximum Density (Minimum Lot Size). Residential infill development shall not exceed the density (shall not have lots smaller than the minimum) permitted for the zoning or land use intensity district in which the property to be developed is located, except as permitted in this Code Section.

§ 3-10-6.3 Density Bonus for Open Space. The maximum allowable density as reflected in the minimum lot size for the applicable zoning or land use intensity district may be increased (lot size decreased) by one square foot for every square foot of land dedicated to public park, greenway, public park or other public space approved by the Land Use Officer; provided, however, that no lot shall be reduced to less than eighty percent (80%) of the required minimum lot size for the applicable zoning or land use intensity district.



Infill Subdivision



Infill Subdivision With Density Bonus

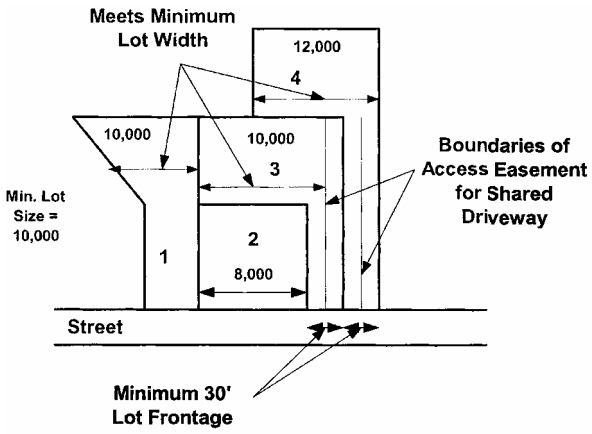
Density Bonus
(Reduced Lot Size)
For Open Space Dedication

§ 3-10-6.4 Lot size averaging. Where, in the opinion of the Land Use Officer, site specific conditions exists, such as irregular shape, difficult topography or other unique conditions that warrant flexibility in lot size, up to one-half of the total residential lots in any plat of a residential infill subdivision may be reduced below the minimum lot size for the applicable zoning or land use intensity district, provided that all lots meet the following:

(a) The average lot area of all lots within the subdivision meets the minimum lot size.

(b) No lot shall be reduced to less than eighty percent (80%) of the required minimum lot size for the applicable zoning or land use intensity district.

(c) This provision shall not extend to abutting undivided and undeveloped property under the ownership of the infill subdivider at the time of infill subdivision.



Subdivision of Irregularly Shaped Parcel for Infill Development Using Flag Lot Design and Lot Size Averaging

§ 3-10-7 FLAG LOTS

§ 3-10-7.1 Intent. This section is intended to allow infill properties which have sufficient area and lot depth but insufficient lot frontage to be subdivided in a manner that will create "flag" lots.

§ 3-10-7.2 Flag Lots Permitted. When a lot contains an area more than twice the minimum required lot size of the zoning or land use intensity district in which said lot is located, said lot may be subdivided into two or more lots subject to the following:

(a) Each lot meets the minimum lot size requirements of said zoning or land use intensity district.
(b) Each lot contains a minimum of thirty (30) feet of frontage on a public street.
(c) The area on which the building is placed shall meet the minimum lot width required for the zoning or land use intensity district in which said lot is located.

§ 3-10-7.3 Shared Driveways for Flag Lots. Although a minimum lot frontage of thirty (30) feet is required, flag lots authorized pursuant to this Code subsection shall share a driveway that is a minimum of twelve (12) feet wide and no more than twenty (20) feet wide. Where a shared driveway is required, there shall be a reciprocal access

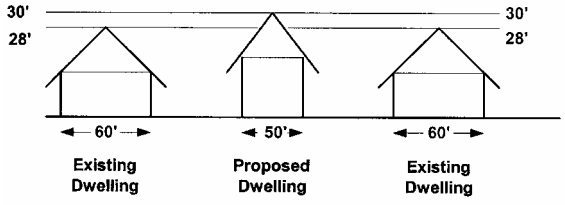
easement recorded on the subdivision plat. No more than three lots/dwellings shall be served by a single access easement.

§ 3-10-7.4 Administrative Approval. Plats containing up to four lots (which may be flag lots) can be administratively approved by the Land Use Officer as a minor subdivision pursuant to Section 2-2 of the Model Land Use Management Code.

§ 3-10-8 DWELLING HEIGHT AND WIDTH

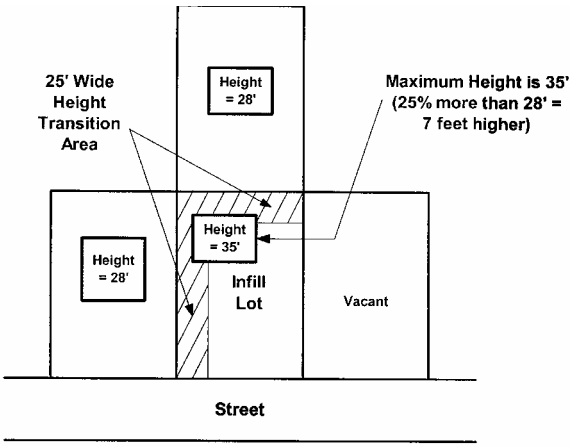
§ 3-10-8.1 Intent. The ratio of height to width along the building frontage is important in ensuring compatibility of residential infill development with established residential neighborhoods. If a new residence is much taller in height or narrower along the building frontage, it will be inconsistent with the character of the established residential area.

§ 3-10-8.2 Height to Width Ratio. Except for development of flag lots permitted pursuant to this Code Section, no new residential dwelling within the residential infill development overlay district shall be constructed which is more than twenty five percent (25%) above or below the average height-to-width ratio of existing residences abutting the lot to be developed on the same block of land. If only one residence abuts the lot to be developed, that residence shall be used to determine the allowable height-to-width ratio.



Illustrative Height-To-Width Calculation

§ 3-10-8.3 Height Transition Area. To ensure compatibility in the infill residential overlay district, within a given lot other than a corner lot or flag lot, a height transition area of twenty-five feet (25') in width is established along each side and rear property line abutting an existing residence. No new residential dwelling or addition to a dwelling shall be constructed within twenty-five (25) feet of a side or rear property line (i.e., height transition area), unless the portion of the dwelling within the height transition area does not exceed the height of the existing dwelling on the lot abutting the side or rear property line by more than twenty five percent (25%). If a residence does not exist on one or more abutting lots, this regulation shall not apply to such situation.



Illustrative Application of Height Transition Area

§ 3-10-9 BUILD-TO LINE AND SETBACKS

§ 3-10-9.1 Intent. The intent of a build-to line is to ensure that new residences constructed in established neighborhoods are placed in a manner that is compatible and consistent with the placement characteristics of existing neighborhoods, and to maintain a consistent street edge. If existing residences are close to the street with shallow front yards, so too should be the residential infill development. If the character of the existing residential neighborhood is one where dwellings have deep front yards, the residential infill development shall also observe that average setback appropriate to its context.

§ 3-10-9.2 Requirement. The build-to line in the infill residential development overlay district shall be as determined by the Land Use Officer pursuant to this intent. In

the case of residential infill development on a corner lot, the prevailing principal building setbacks along the side street shall establish the build-to line along the side street.

§ 3-10-9.3 Setback Averaging. When the front setbacks of principal buildings (dwellings) in the vicinity of the proposed residential infill development vary in terms of distance from the right-of-way in a manner that does not result in a consistent street edge, the Land Use Officer shall determine the average front building setback for dwellings in the established residential area. Based on the average front building setback determined for these blocks, the Land Use Officer shall establish a build-to requirement for the proposed infill development to be observed.

§ 3-10-9.4 Setback Variance. The Board of Appeals may grant a variance to any build-to line established by the Land Use Officer, in cases where site constraints (e.g., protection of existing trees, topographic limitations, etc.) or other practical difficulty would warrant such a variance. Said variance shall be considered upon application in accordance with Section 7-2 of this Code.

§ 3-10-9.5 Exemption. The placement of a principal residential dwelling on a flag lot created pursuant to this Ordinance shall be exempt from this Code Subsection.

§ 3-10-10 DESIGN REQUIREMENTS

This subsection articulates a general design goal to make infill development acceptable aesthetically with neighboring dwellings and to help alleviate concerns about aesthetic impacts of infill development. Residential infill development should “learn” from its neighbors with regard to size, bulk, scale, mass, and rhythm. Dwellings shall either be similar in size and height, or if larger, be articulated and subdivided proportionally to the mass and scale of other residential buildings in the existing residential area. Infill residential development shall maintain the rhythm created by the repetition of facades in the established residential area, including the sizing and frequency of windows.

§ 3-10-11 APPEAL

A building permit applicant, subdivider, or other party aggrieved by a decision of the Land Use Officer in the administration, interpretation or enforcement of this Ordinance may appeal said decision as provided in Section § 7-3 of this Code.

Commentary: Local governments adopting this appeal provision must provide the procedures or refer to an appeals procedure. Section 7-3 of the Model Land Use Management Code provides for appeal procedures, and this ordinance makes reference to that Code section. Local governments must also adopt § 7-3 in order to make this appeal provision work. Yet another alternative is to assign the appeal authority to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

REFERENCES

Atlanta Regional Commission. Infill Development. (Quality Growth Toolkit). http://www.atlreg.com/qualitygrowth/planning/toolkits.html

ECO Northwest. 1995. Urban Growth Management Tools Technical Report. Salem: Oregon Transportation and Growth Management Program.

Georgia Quality Growth Toolkit. Encouraging Infill Development.

Maryland Department of Planning. 2001. Managing Maryland's Growth: Models and Guidelines for Infill Development. Baltimore: Maryland Department of Planning.

OTAK. November 1999. The Infill and Redevelopment Code Handbook. Salem: Oregon Transportation and Growth Management Program.

4-1 AGRICULTURAL LANDS

CONTENTS

§4-1 AGRICULTURAL LANDS

§4-1-1 PURPOSE AND INTENT

Commentary on Applicability: This module of the model code is considered more applicable to unincorporated lands (i.e., counties). However, certain small cities have significant amounts of land classified as agricultural use (Task 1 Report) and may have a policy to protect existing agricultural lands within the city limits. Such cities may wish to consider adopting this module, but the width of the agricultural buffer requirement and notice requirement are probably too extensive to be applied within or near developed areas of cities. For that reason, cities that apply this module should carefully consider reducing the agricultural buffer requirements and distance for which notice is required.

Legal Commentary: One cannot be sure that the waiver is legally enforceable, as there is no statute or case that has dealt with this issue. However, that should not deter use of the waiver. If a map is used to identify agricultural land, this module may be subject to the Zoning Procedures Act. Thus, it is highly recommended that if be adopted in accordance with the Zoning Procedures Act.

It is found that non-agricultural uses when contiguous to farmland can affect how an agricultural use can be operated, which can lead to the conversion of agricultural land to urban, suburban, or other non-agricultural use. It is a goal of the County [City] Comprehensive Plan to preserve agricultural land in the jurisdiction that is not otherwise identified in the Comprehensive Plan as necessary for development.

It is the policy of the County [City] to preserve and encourage agricultural land use and operation within the jurisdiction, and to reduce the occurrence of conflicts between agricultural and non-agricultural land uses and to protect public health, safety, and welfare.

It is the policy of the County [City] to notify applicants for building permits for buildings or land use permits for uses on non-agricultural land abutting agricultural land or operations with notice about the County's [City's] support of the preservation of agricultural lands and operations. An additional purpose of the notification requirement is to promote a good neighbor policy by informing prospective builders and occupants of non-agricultural land adjacent to agricultural lands and operations of the effects associated with residing or operating activities close to agricultural land and operations. Another purpose of this Resolution [Ordinance] is to reduce the loss of agricultural resources in the jurisdiction by limiting the circumstances under which agricultural operations on agricultural lands may be deemed a nuisance.

It is further the policy of the County [City] to require all new developments adjacent to agricultural land or operations to provide a buffer to reduce the potential conflicts between agricultural and non-agricultural land uses. By requiring a 150-foot agricultural buffer on abutting non-agricultural lands, the County [City] finds it will be helping to ensure prime farmland remains an agricultural use.

§4-1-2 DEFINITIONS

Agricultural land: Those land areas within the County [City] that are identified as agricultural on the "Official Map of Agricultural Lands and Operations."

Agricultural operations: **Any** agricultural activity, operation, or facility taking place on agricultural land shown on the "Official map of Agricultural Lands and Operations," including, but not limited to, the cultivation and the tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including timber, viticulture, apiculture or horticulture; the raising of livestock, fur-bearing animals, fish or poultry; agricultural spoils areas; and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Official map of agricultural lands: That map, attached to and made a part of this Resolution [Ordinance], which designates agricultural lands based on data for existing land use patterns, soils, property tax assessment, or other information.

§4-1-3 OFFICIAL DESIGNATION OF AGRICULTURAL LANDS

The agricultural lands to which this Resolution [Ordinance] applies are shown on a map titled "Official Map of Agricultural Lands" which is hereby attached to and made a part of this Resolution [Ordinance].

Commentary on Designating Agricultural Lands. Most agricultural protection ordinances apply within the context of zoning districts and a zoning map. Because this model code does not assume a zoning map will be adopted, there must be another way found to designate agricultural lands and operations other than an official zoning map. Options, in lieu of a zoning map showing agricultural districts, are as follows:

(a) Existing Land Use Map. The ordinance could refer to, or adopt by reference, the local government's map of existing land use which shows existing agricultural uses. This option is NOT recommended, because the comprehensive plan in Georgia usually does not have the force of law, and because there the mapped areas in the comprehensive plan probably do not relate sufficiently to the specific purposes of the regulation.

(b) Future Land Use Map. The ordinance could refer to, or adopt by reference, the local government's map of future land uses, which shows agricultural lands to be preserved or protected. This option is NOT recommended, primarily for the same reasons as using the existing land use map.

(c) Tax Parcel Data With or Without a Map. About the only way to implement this module of the model code WITHOUT a map of agricultural lands and operations would be to use County Tax Assessor's data showing which properties are "bona fide" agricultural uses per Georgia law. One might consider designating, as agricultural lands and operations, all property that is used as agricultural land and timberland and which is qualified by the County Board of Tax Assessors for preferential assessment of bona fide agricultural property use assessment under O.C.G.A. Section 48-5-7.1. Unless these tax parcels can be accurately mapped, however, the use of taxation data alone is not recommended. Without a map, property owners will not be able to visualize how the regulations apply (and to whom), nor will the Land Use Officer be in a very good position to administer the regulations without a map.

(d) Soil Survey Map. The county or city might designate agricultural lands as all soils identified in the county's soil survey (Natural Resource and Conservation Service) as Classes I and II soils. Said classes are the most valuable in terms of agricultural production. Soil

surveys are an important source of data on which to base a map of agricultural lands and operations. It is possible that the soil survey could be adopted by reference and the regulations made applicable to certain soils. However, this option is NOT recommended because soil maps are difficult to relate to property boundaries—both property owners and the Land Use Officer would have a difficult time understanding and interpreting the boundaries.

(e) Map of Agricultural Lands. The prior alternatives are inadequate. To implement this module of regulations, it is strongly recommended that an official map of agricultural lands be prepared and adopted. Professional assistance is recommended in preparing the map, which should be drawn only after consideration of county soil surveys, existing land uses, and the potential impacts of specific agricultural land uses.

Commentary on Interpreting Boundaries: Any time a map of properties is prepared and adopted, there may be a need for provisions that govern how the map is interpreted. Rules of interpretation are much the same as with an official zoning map, and county or city might employ similar provisions about interpreting the boundaries of agricultural lands and operations. For more information, see "Interpretation of District Boundaries" in Section 6-1-5 of this model code

§4-2 AGRICULTURAL USE NOTICE AND WAIVER

§4-2 AGRICULTURAL USE NOTICE AND WAIVER

§4-2-1 REQUIRED

As a condition of and at the time any land use permit, building permit, or occupancy permit is applied for on non-agricultural land abutting or within 1,000 feet of agricultural land, permit applicants shall be provided by the Land Use Officer with an "Agricultural Use Notice and Waiver." Prior to action on the issuance of a land use permit, building permit, or occupancy permit on property abutting or within 1,000 feet of agricultural land, the applicant for said permit shall be required to sign a waiver on a form prepared by the Land Use Officer which will indicate that the applicant understands that agricultural land exists near the subject property and an agricultural operation is ongoing adjacent to his existing or proposed use which may produce odors, noise, dust, and other effects which may not be compatible with the applicant's development. Nevertheless, understanding the effects of adjacent agricultural operations and uses on adjacent agricultural lands, the applicant agrees by executing the form to waive any objection to those effects and understands that his or her permit is issued and processed in reliance on his or her agreement not to bring any action against adjacent landowners whose property is agricultural land or an agricultural operation, or any local government, asserting that the adjacent agricultural operations or uses of agricultural land constitutes a nuisance. Any such notice or acknowledgment provided to or executed by a landowner adjoining agricultural land or agricultural operation shall be a public record.

§4-2-2 CONTENT

The Agricultural Use Notice and Waiver shall include the following information in substantially the same or similar format and content:

"You are hereby notified that the property you are proposing to use or build upon is located within 1,000 feet of agricultural land with one or more agricultural operations. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and

inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more inconveniences may occur as a result of agricultural operations that are in compliance with existing laws and regulations and accepted customs and standards. If you live or operate a use near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. Your signature constitutes an agreement not to bring any action against adjacent landowners whose property is agricultural land or in agricultural operation, or against local government, asserting that the adjacent agricultural operation or uses of agricultural lands constitutes a nuisance.

Signature of Applicant: _____"

§4-3 AGRICULTURAL BUFFER REQUIREMENTS

CONTENTS

§4-3 AGRICULTURAL BUFFERS

§4-3-1 PURPOSE

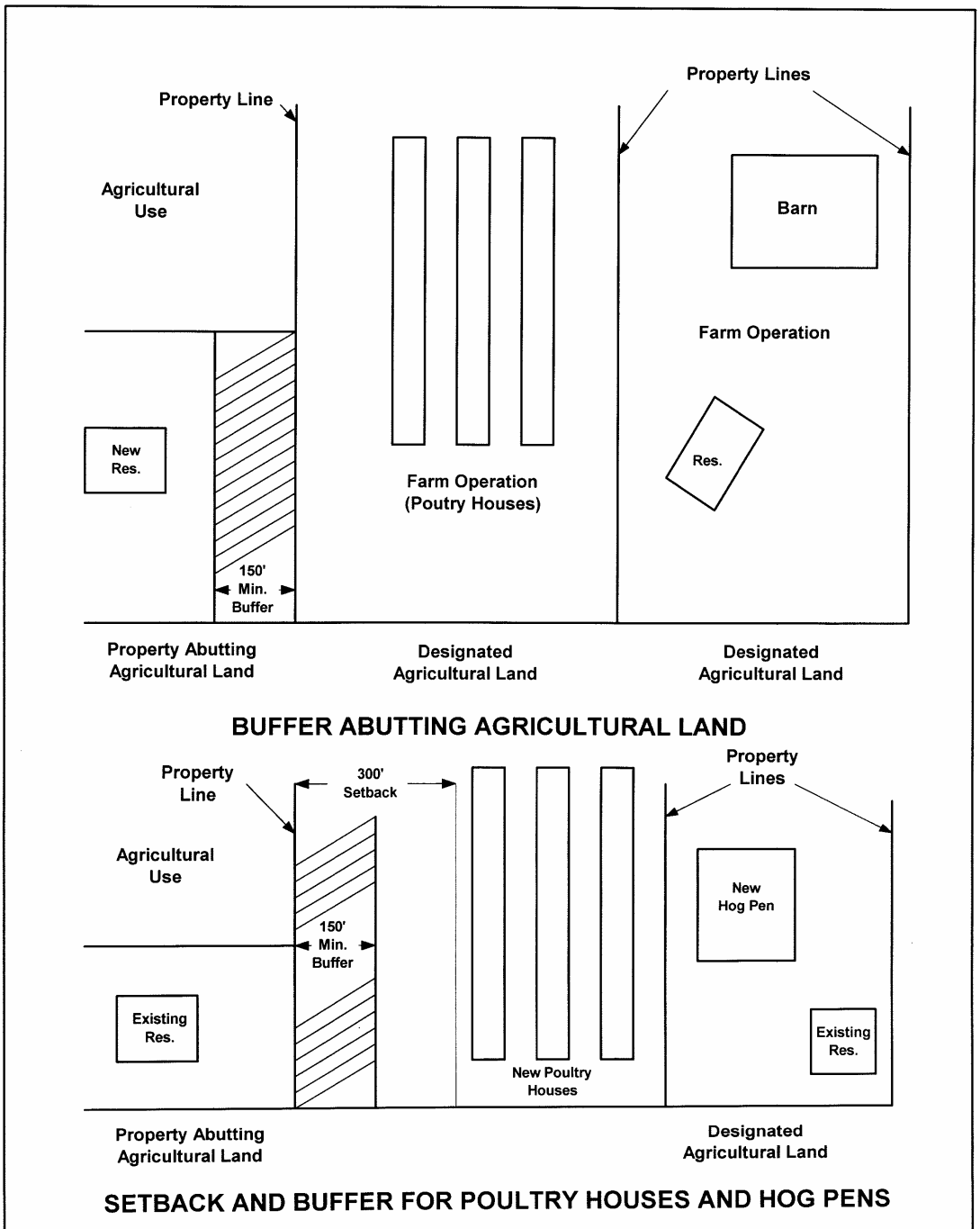
To minimize future potential conflicts between agricultural and non-agricultural land uses and to protect public health, safety, and general welfare, all new non-agricultural development adjacent to designated agricultural land shall be required to provide an agricultural buffer in accordance with the provisions of this section. In addition, for the same purposes, all new poultry houses and hog pens shall be required to provide a setback and agricultural buffer in accordance with the provisions of this section.

§4-3-2 AGRICULTURAL BUFFERS REQUIRED

§4-3-2.1 Buffer Abutting Agricultural Land. Any non-agricultural use on property abutting agricultural land as defined by this Resolution [Ordinance] shall provide an agricultural buffer with a minimum width of 150 feet along all property lines abutting designated agricultural land (see Figure 4-3-1).

§4-3-2.2 Setback and Buffer Required for New Poultry Houses and Hog Pens. When a new poultry house is proposed to be erected or a hog pen established on property, whether designated as agricultural land or not, there shall be a building and use setback of 300 feet, including an agricultural buffer with a minimum width of 150 feet, abutting any property not designated as agricultural land pursuant to this Resolution [Ordinance] (see Figure 4-3-2.2.1).

Figure 4-3-2.2.1



§4-3-3 BUFFER SPECIFICATIONS

All required agricultural buffers shall consist of natural undisturbed areas to the extent that native plants, trees or hedge rows exist, and they shall be replanted where sparsely vegetated so that they provide a more or less opaque screen between the non-agricultural land and the agricultural land. Drainage features, determined by the Land Use Officer to be consistent with the use of the property as an agricultural buffer, may be permitted within a required buffer.

§4-3-4 BUFFER SITE PLAN REQUIRED

Any applicant for a land use permit or building permit for non-agricultural use on property abutting agricultural land as defined by this Resolution [Ordinance], or any applicant for a land use permit or building permit for a poultry house or hog pen on any property, shall submit a buffer site plan for review and approval. The buffer site plan shall include provision for the establishment, management and maintenance of the agricultural buffer. To ensure management of the agricultural buffer, the property owner may at his or her discretion dedicate the agricultural buffer as a conservation easement in favor of a land trust, provided that such easement is legally valid and an executed copy is submitted to the Land Use Officer.

Commentary: A community that combines the agricultural buffer regulation with a program of acquiring conservation easements over the land might be able to establish an effective agricultural buffer greenbelt system in the county.

§4-3-5 BUFFER AS A CONDITION OF PERMIT

The Land Use Officer shall not issue a land use permit or authorize issuance of a building permit until and unless a buffer site plan has been submitted by the applicant and approved by the Land Use Officer, and until or unless the buffer has been installed by the applicant; provided, however, that if guarantees have been made by the applicant, acceptable to the Land Use Officer, that the agricultural buffer will be installed prior to occupancy of the building or initiation of use, the Land Use Officer may issue said land use permit or authorize issuance of a building permit subject to such assurances or guarantees. It shall be unlawful to destroy, remove, selectively clear, or otherwise modify an agricultural buffer required by this section after it is established.

§4-3-6 DESIGNATION OF BUFFER ON SUBDIVISION PLAT

If a non-agricultural property which abuts an agricultural land defined by this Resolution [Ordinance] is proposed for subdivision, the subdivider shall be required to designate all land within 150 feet of a property line of an agricultural land as an agricultural buffer on said subdivision plat.

Commentary: It may be somewhat difficult to enforce this provision about designating agricultural buffers on subdivision plats, unless the local government has adopted land subdivision regulations which require review and approval of subdivision plats prior to recording.

Commentary: This module is written as a part of an overall land use management system. However, it can be easily adopted as a stand-alone resolution or ordinance, if most or all of the provisions of §2-0, "Basic Provisions for All Resolutions [Ordinances]," are included.

§4-4 MANUFACTURED HOME COMPATIBILITY STANDARDS

CONTENTS

§4-4 MANUFACTURED HOME COMPATIBILITY STANDARDS

Commentary: The subject of manufactured homes deserves extensive commentary prior to presentation and discussion of a model code on manufactured home compatibility standards.

Overview. Whatever one's views regarding manufactured housing, it cannot be disputed that the manufactured housing of today is quite different from the mobile homes of 20 or more years ago. "Mobile homes," as they are commonly thought of, are no longer being built, and "manufactured homes" have taken their place. Manufactured housing is much more like traditional site-built housing than was the traditional mobile home. The manufactured housing industry contends that there is no appreciable difference between the two; nevertheless, manufactured housing is generally thought of as being "alternative housing" meaning, an

alternative to site-built housing. Being generally less expensive than site-built housing, manufactured housing is also considered to provide viable housing opportunities for low-income families.

Federal Preemption of Construction and Safety Standards. Manufactured homes are regulated nationally by The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq.; 24 CFR Part 3280 and Part 3282. The U.S. Department of Housing and Urban Development (HUD) administers the national manufactured housing program. It was established to protect the health and safety of the owners of manufactured homes. Under the program, HUD issues, monitors, and enforces federal manufactured home construction and safety standards. The standards preempt state and local laws that are not identical to the federal standards. HUD may enforce the standards directly or by various states that have established State Administrative Agencies (SAAs) in order to participate in the program.

What Aspects of Manufactured Homes Can Local Governments Regulate? The legal validity of local regulation of manufactured housing is complicated by the fact that construction, safety, and energy standards for manufactured housing are regulated by the federal government. State and local governments are "preempted" by federal law (the National Manufactured Housing Construction and Safety Standards Act of 1974) from enacting construction, safety, and energy standards that are stricter than those established by federal regulations adopted by HUD. However, it is generally acknowledged that federal legislation does not limit the authority of local governments to regulate the location and appearance of manufactured housing, as long as they do not do so based on compliance or noncompliance with more strict construction, safety, and energy standards.

Relevant Court Cases. In Cannon v. Coweta County, 389 S.E.2d 329 (1990), the court struck down a county zoning ordinance that prohibited siting manufactured homes in areas other than in manufactured home parks because the ordinance was not sufficiently related to the public health, safety, and welfare, and thus, not within the scope of the county's zoning authority. In Georgia Manufactured Housing Association, Inc. v. Spalding Co., 148 F.3d 1304 (11th Cir. 1998), the Eleventh Circuit Court of Appeals upheld Spalding County's zoning ordinance, which imposed a 4:12 roof pitch requirement on manufactured homes. The Court overruled the lower district court's decision that: (1) the local roof pitch requirement impaired the Federal

government's superintendence of the manufactured home industry; (2) the requirement had no substantial relation to the promotion of safe, attractive, and affordable housing; (3) the requirement unduly burdened interstate commerce; and, (4) the ordinance violated the plaintiffs' substantive due process rights. The Eleventh Circuit held that the roof pitch requirement was an aesthetic standard that fell outside the preemptive reach of the Manufactured Housing Construction and Safety Standards Act. In a footnote, the Court criticized its own 1988 Scurlock v. Lynn Haven decision, which broadly interpreted the preemptive scope of the Act. The Court also found that the ordinance satisfied the rational basis test because its purported purpose was to further aesthetic compatibility. Finally, the Court dismissed the argument that it burdened interstate commerce, because it treated all manufactured home manufacturers equally, regardless of their location. Source: Summary of State Laws and Court Decisions Regarding the Zoning, Placement and Tax Treatment of Manufactured Housing, Manufactured Housing Institute. http://www.mfghome.org/DR_state_laws_map.html.

§4-4-1 PURPOSE

The purpose of this Resolution [Ordinance] is to ensure that manufactured homes are installed on a site according to applicable federal and manufacturer's requirements. This Resolution [Ordinance] is also intended to ensure architectural compatibility of manufactured homes with adjacent single-family residences and other land uses through the application of architectural compatibility standards.

§4-4-2(A) BASIC DEFINITIONS

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

§4-4-2(B) DEFINITIONS REGARDING ARCHITECTURAL COMPATIBILITY

Commentary: Most, if not all, of these definitions are needed only if the local government adopts Type 3 compatibility standards (see §4-4-7).

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.
Bay window: A window assembly whose maximum horizontal projection is not more than two feet from the vertical plane of an exterior wall and is elevated above the floor level of the home.
Compatibility: With regard to buildings, compatibility means achieving harmony in appearance of architectural features in the same vicinity.
Dormer: A window projecting from a roof.
Eave: The projecting lower edges of a roof overhanging the wall of a building.

§4-4-3 LAND USE PERMIT REQUIRED

No manufactured home shall be installed on any site, nor shall any such manufactured home be occupied or used for any purpose until and unless a Land Use Officer issues a land use permit. The Land Use Officer shall not issue a land use permit for installing, occupying, or using a manufactured home unless it is in conformity with all the provisions of this Resolution [Ordinance].

§4-4-4 BASIC INSTALLATION REQUIREMENTS

§4-4-4.1 Foundation. Each manufactured home must be set on an appropriate foundation.

§4-4-4.2 Hauling Mechanisms Removed. The transportation mechanisms, including wheels, axles, and hitch, must be removed prior to occupancy.

§4-4-4.3 Installation Regulations. The manufactured home shall be installed in accordance with the installation instructions from the manufacturer, as appropriate.

§4-4-4.4 Approved Septic System. Each manufactured home shall be connected to a public sanitary sewer system, community sewerage system, or on-site septic system with capacity available as approved by the health officer.

Commentary: The sections that follow provide three optional gradations of manufactured home compatibility. Type 1 compatibility standards (§4-4-5) are the minimum architectural standards considered necessary and are recommended to apply everywhere in a given local government jurisdiction. Type 2 compatibility standards (§4-4-6) provide a greater amount of architectural compatibility and are appropriate for manufactured homes being infilled on vacant lots in neighborhoods containing predominantly site-built single-family residences. Type 3 compatibility standards (§4-4-7) are intended to apply within areas of upscale homes and adjacent to or within properties listed on the National Register of Historic Places, locally designated historic districts, other design review districts, and similar areas where the impact of an unregulated manufactured home could have significant impacts on the character and aesthetics of its surroundings.

§4-4-5 TYPE 1 COMPATIBILITY STANDARDS (See Figure 4-4-5.0)

§4-4-5.1 Applicability. This subsection shall apply in all areas within the County [City] that lie within 200 feet of a state highway or county-owned road [or insert description of other appropriate geography].

§4-4-5.2 Foundation. The manufactured home shall be placed on a permanent foundation.

§4-4-5.3 Skirting. The entire perimeter area between the bottom of the structure and the ground of each manufactured home shall be skirted or underpinned with brick, masonry, finished concrete or siding (of like or similar character to the manufactured home) that completely encloses the perimeter of the undercarriage except for proper ventilation and access openings.

§4-4-5.4 Exterior Finish. The exterior siding of the manufactured home shall consist of wood, hardboard, vinyl, or plastic siding material.

§4-4-5.5 Roof Pitch and Materials. The manufactured home shall have a pitched roof with a slope of at least two feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, asphalt shingle, coated metal, or similar material.

§4-4-6 TYPE 2 COMPATIBILITY STANDARDS (See Figure 4-4-6.0)

§4-4-6.1 Applicability. This subsection shall apply to all manufactured homes sited on lots located within 500 feet of two or more existing site-built single-family residences.

§4-4-6.2 Foundation. The manufactured home shall be placed on a permanent foundation.

§4-4-6.3 Masonry Skirting. The entire perimeter area between the bottom of the structure of each manufactured home and the ground, including stairways, shall be underpinned with masonry that completely encloses the perimeter of the undercarriage and attached stairways except for proper ventilation and access openings.

§4-4-6.4 Exterior Finish. The exterior siding of the manufactured home shall consist of wood or hardboard siding material.

Figure 4-4-5.0

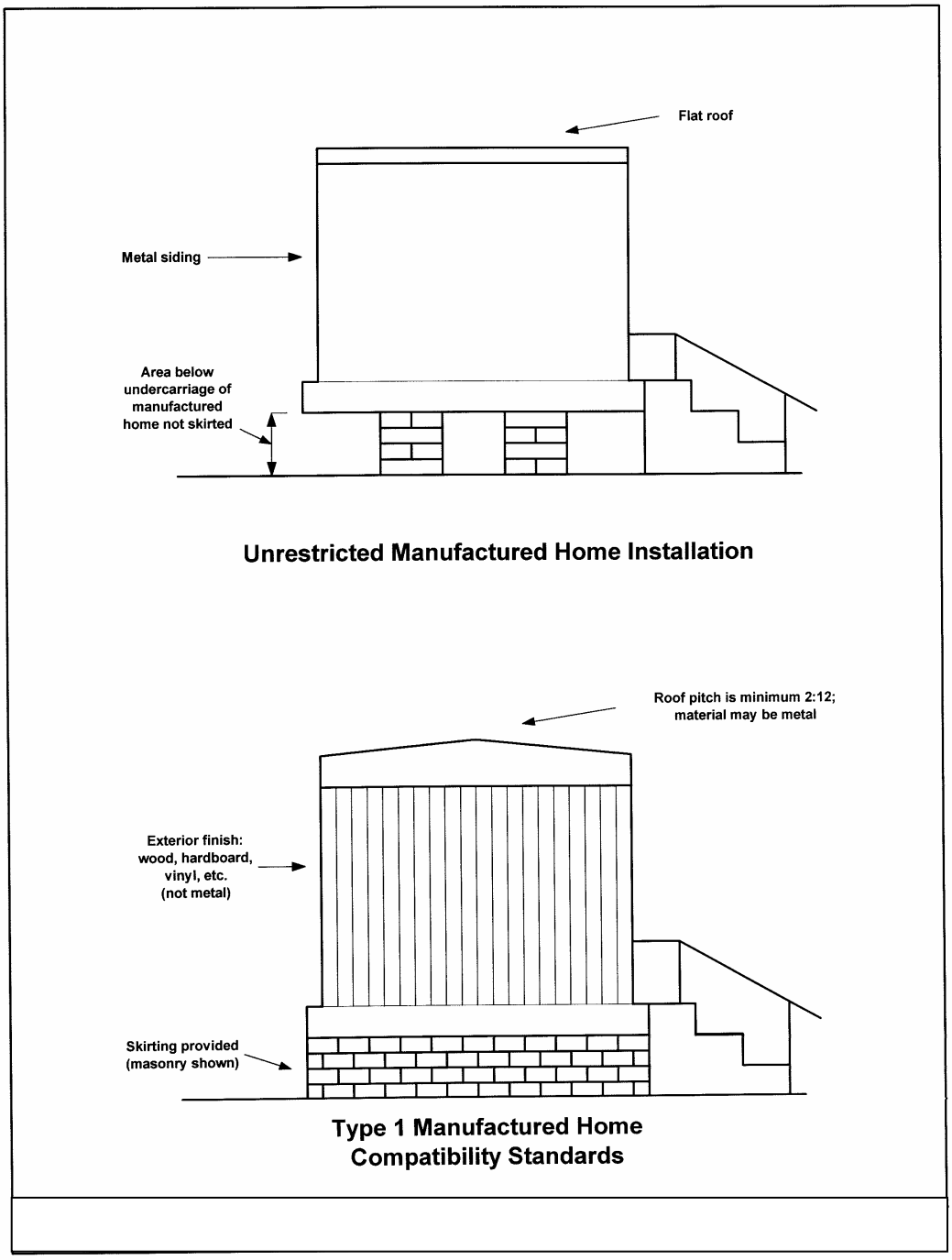
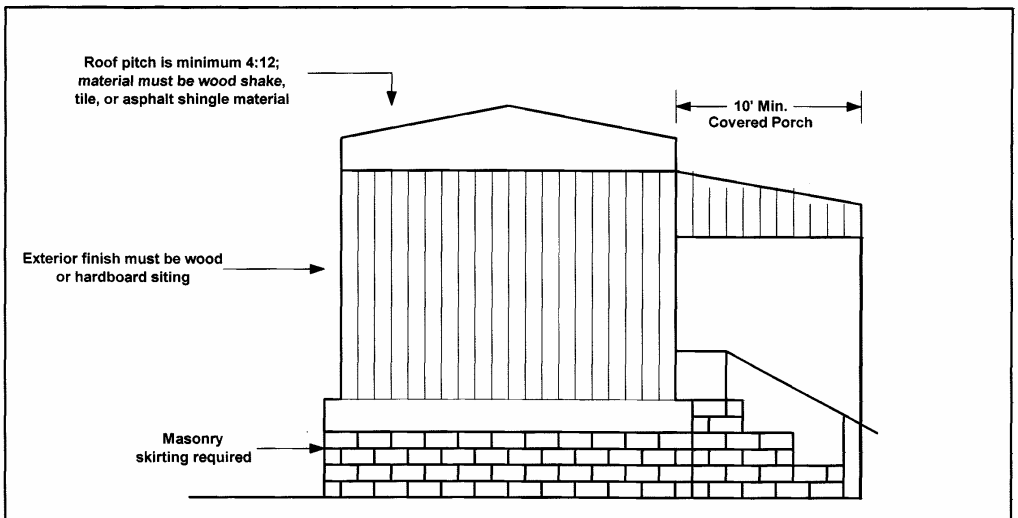
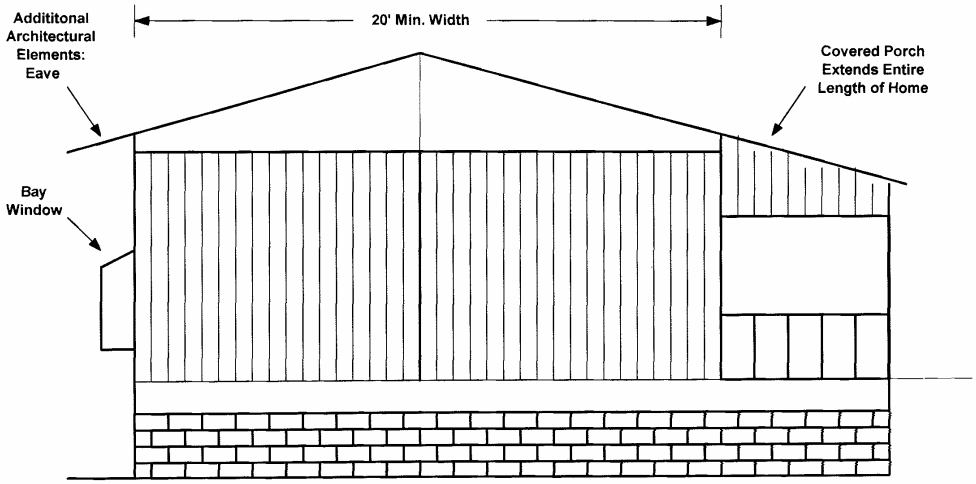

Flat roof
Metal siding
Area below undercarriage of manufactured home not skirted
Unrestricted Manufactured Home Installation
Roof pitch is minimum 2:12; material may be metal
Exterior finish: wood, hardboard, vinyl, etc. (not metal)
Skirting provided (masonry shown)
Type 1 Manufactured Home Compatibility Standards

Figure 4-4-6.0



Type 2 Manufactured Home Compatibility Standards



Type 3 Manufactured Home Compatibility Standards (Includes All Type 2 Standards)

§4-4-6.5 Roof Pitch and Materials. The manufactured home shall have a pitched roof with a slope of at least four feet in height for each 12 feet in width. Roof materials shall be wood shake, tile, or asphalt shingle material.

§4-4-6.6 Covered Porch or Deck. A covered porch, deck, or entry area at least 10 feet by 10 feet shall be added for each entrance to the manufactured home prior to occupancy.

§4-4-7 TYPE 3 COMPATIBILITY STANDARDS

§4-4-7.1 Applicability. This subsection shall apply to areas where the strictest compatibility standards are necessary to ensure architectural harmony of manufactured homes with adjacent and nearby site-built homes and other land uses. These standards shall apply in addition to the Type 2 Compatibility Standards provided in §4-4-6.

§4-4-7.2 Width. The manufactured home shall consist of two fully enclosed parallel sections and a total width of at least 20 feet.

§4-4-7.3 Covered Porch. A covered porch or deck shall be provided along the entire length of the manufactured home facing the front yard or street prior to occupancy, with a 10-foot minimum depth.

§4-4-7.4 Additional Architectural Features. The manufactured home shall contain eaves with a minimum projection of six inches, window shutters, and at least one additional architectural feature such as dormers, bay windows, or another architectural feature that will provide equal compatibility with surrounding residences and land uses, as approved by the Land Use Officer.

Commentary: This module is written as if it is a part of the larger land use management code. However, it could be adopted as a stand-alone ordinance if an appropriate preamble is written and the following provisions are added to this text:

§2-0-2 ADOPTION AND EFFECTIVE DATE

§2-0-3 LEGAL STATUS PROVISIONS

§2-0-4 ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

For additional assistance. The manufactured home industry takes an active role in reviewing and commenting on local ordinances that regulate manufactured homes. Local governments are encouraged to work with the manufactured home industry in preparing their regulations. Contact: *Georgia Manufactured Housing Association, 1000 Circle 75 Parkway, Suite 060, Atlanta, GA 30339. 770.955.4522*

References:

Forsyth County, Georgia, Unified Development Code. 2001.

Sanders, Welford. 1993. Manufactured Housing Site Development Guide. Planning Advisory Service Report No. 445. Chicago: American Planning Association.

§4-5 MANUFACTURED HOME PARKS

CONTENTS

§4-5 MANUFACTURED HOME PARKS

Commentary: This module is written as a "catch all" ordinance to regulate manufactured home parks, recreational vehicle parks, and recreational vehicle campgrounds. If the local government has more limited purposes, it may consider modifications to tailor the language herein to more limited purposes. For instance, if the city or county has no likelihood of the need for campground regulations, it would be appropriate to change the language in this model code.

§4-5-1 PURPOSE

This Resolution [Ordinance] regulates mobile home parks, manufactured home parks, and recreational vehicle and travel trailer parks and campgrounds, which provide for affordable permanent and temporary housing or seasonal recreational developments. Manufactured home parks are intended to provide for the leasing of spaces for the placement of manufactured homes, owned or rented by tenants, as well as spaces or camp sites for recreational vehicles, within a planned residential community, park, or campground. A manufactured home park is different from a residential subdivision in that the individual spaces for manufactured homes, campsites, or recreational vehicles are leased rather than platted and sold. By requiring less land per home or vehicle space, manufactured home parks are built at densities greater than those for other detached dwellings. Service facilities such as laundry and leasing office are often planned and provided as a part of the park development.

§4-5-2 DEFINITIONS

Accessory building: A building subordinate to the main building on a lot or space and used for purposes customarily incidental to those of the main building or use.

Active recreational facilities: Equipment and areas prepared for active use for recreational and leisure purposes, including but not limited to: playground equipment (swing sets and climbing structures); courts for basketball, volleyball, and tennis; leveled, striped fields for football, soccer, or all-purpose fields; community picnic pavilion (including covered facilities with grills and/or fire pits); and community buildings for recreational events. Trails and bikeways through open spaces shall not be considered active recreational facilities.

Manufactured home: A structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Manufactured home park: Any property on which three or more manufactured homes, recreational vehicles, or combination thereof are located or intended to be located for purposes of residential

or recreational occupancy of a temporary, seasonal, or permanent nature. A campground designed to serve recreational vehicles is also included in this definition.

Manufactured home space: An area within a manufactured home park, distinguished from a lot in a subdivision under fee-simple ownership, upon which a single manufactured home or recreational vehicle is or may be placed. If designed for seasonal or permanent occupancy, a manufactured home space may provide area and be used for storing the belongings of the occupant.

Mobile home: A structure, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; and which has not been inspected and approved as meeting the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

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

§4-5-3 SITE PLAN REVIEW AND LAND USE PERMIT REQUIRED

No manufactured home park shall be developed until and unless a site plan shall have been approved by the Land Use Officer and County [City] Engineer and a land use permit is issued by the Land Use Officer. The Land Use Officer shall not issue a land use permit for a manufactured home park unless it is in conformity with all the provisions of this Resolution [Ordinance].

§4-5-4 SITE CONDITIONS AND SITE PLANNING

§4-5-4.1 Site Conditions. Manufactured home parks shall be sited on land that is not subject to hazards such as flooding, erosion, land subsidence, and areas with possible insect or rodent infestation. The condition of the soil, ground water level, drainage, rock formations, and topography shall be appropriate for the use to ensure that no hazards to the property or to the health and safety of the occupants occurs.

§4-5-4.2 Site Planning. Planning for the manufacturing home park should be adapted to individual site conditions and the type of use or uses served, reflect advances in site planning techniques, and be adapted to the trends in the design of the manufactured home or recreational vehicle itself. Site planning and improvements shall: provide for facilities and amenities appropriate to the needs of the occupants; safe, comfortable, and sanitary use by the occupants under all weather conditions; and practical and efficient operation and maintenance of all facilities at reasonable costs. The street and block pattern for the park shall be designed to attain proper sizes and shapes of manufactured home spaces so as to provide desirable areas and to reduce excessive length of street construction without impairing convenient circulation and access.

§4-5-5 GENERAL DEVELOPMENT REQUIREMENTS

Manufactured home parks shall meet the following requirements:

§4-5-5.1 Site Frontage, Access, and Minimum Width. Properties containing manufactured home parks shall have a minimum of 200 feet of property frontage on a public street, and direct vehicular access to the manufactured home park shall be provided by means of an abutting public street with at least 200 feet of property frontage. The manufactured home park shall have a minimum lot width of 200 feet throughout the entire depth of the developed portion of the property. See Figure 4-5-5.1.1.

§4-5-5.2 Perimeter Buffer or Landscape Screen. A minimum 20 foot wide buffer, where natural vegetation exists and provides a more or less opaque screen; or, where no natural vegetation forming an opaque screen exists, a minimum 20 foot wide landscape strip with evergreen trees that will grow to a height of at least six feet within three years shall be

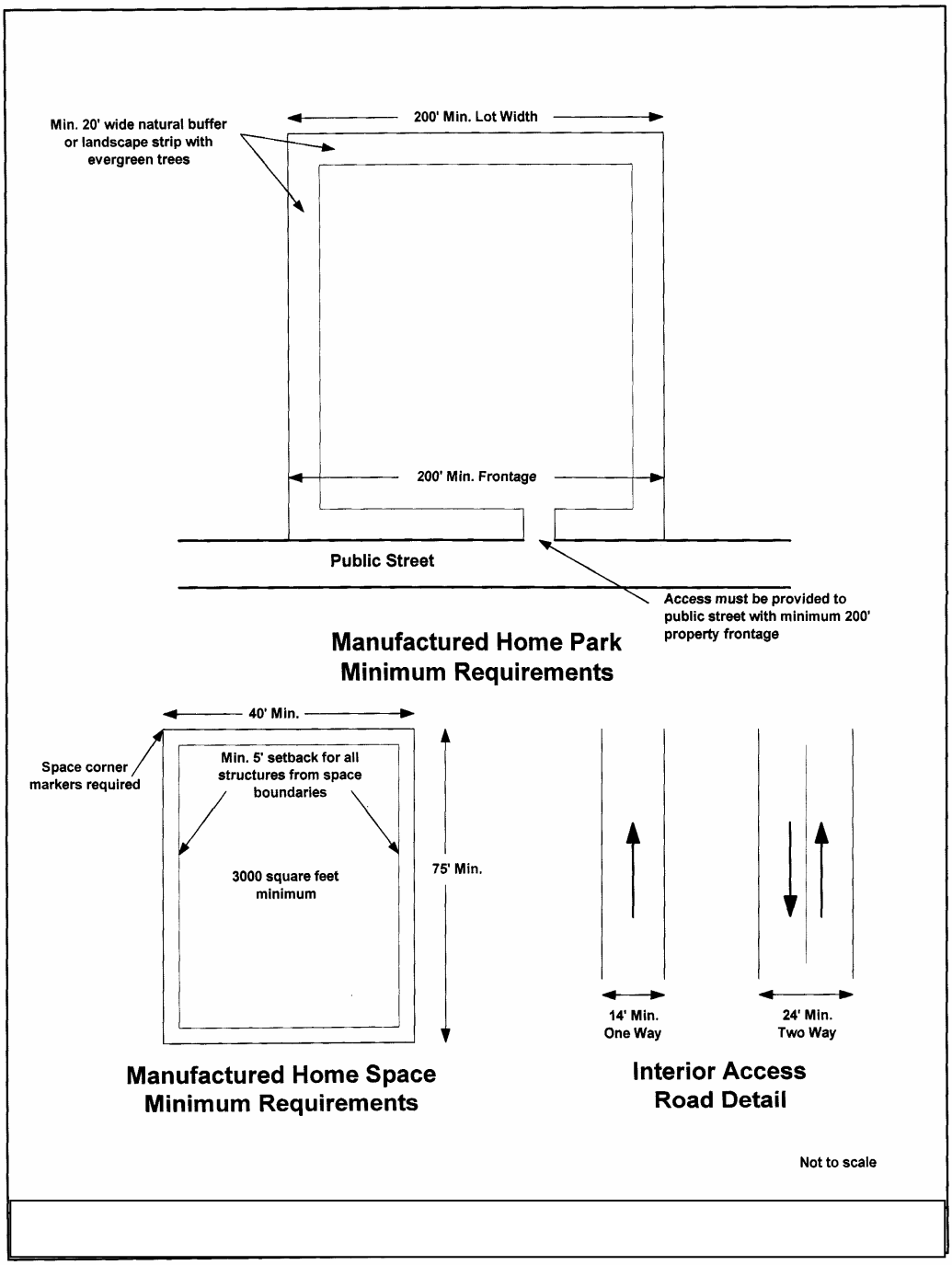
installed and maintained around the entire perimeter of the development, except for approved access and utility crossings. See Figure 4-5-5.1.1.

Commentary: Some communities may wish to allow as a substitute for or perhaps require in addition to the perimeter buffer a solid wooden fence at least six feet high. However, there may not be a need to "wall off" the manufactured home park on all sides, so a fence requirement is not included in this model code. A fence may be appropriate as a condition of a variance to the perimeter buffer requirement, if there is hardship involved in providing the minimum 20-foot width.

§4-5-5.3 Open Space and Recreational Areas. A minimum of 20 percent of the site area shall be open space and recreational area, including the required perimeter buffer or landscape screen. A minimum of eight percent of the total site area, counted as part of the required 20 percent site area that is open space and recreation area, shall be devoted to one or more active recreation facilities.

Commentary: Bair (1965) recommends eight percent minimum open space for manufactured home parks. Schneider (1977) finds that for recreational vehicle parks the minimum open space ratio ranges from eight percent (the most commonly found) to 40 percent.

Figure 4-5-5.1.1



§4-5-5.4 Community Services. As part of the site plan review process, the developer may propose and the County [City] may approve one or more other structures for manufactured home park occupants, such as laundries, storage, garages, and a park leasing or management office. Any structure that draws its trade from outside the park boundaries is prohibited.

§4-5-5.5 Interior Access Roads, Addresses, and Signing. The road system within the manufactured home park shall be designed to meet the requirements of the County fire marshal and the traveling public to include the following:

(a) All interior roads shall be private but constructed to provide fire apparatus access and paved.
(b) One-way interior roads shall be constructed with a minimum surface width of 14 feet, and shall be designated "no parking."
(c) Two-way interior roads shall be constructed with a minimum surface width of 24 feet, and shall be designated "no parking."
(d) Interior roads shall be clearly marked at each intersection with signs to identify traffic directions and space numbers served by the road.
(e) Driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed. (See Figure 4-5-5.1.1).

§4-5-5.6 Guest Parking. In addition to on-site parking, guest parking spaces shall be provided as part of the development, at a ratio of one parking space per each six manufactured home spaces. Guest parking spaces shall be grouped and distributed evenly throughout the manufactured home park.

§4-5-5.7 Utilities. All manufactured home parks, and each manufactured home space within the park, shall be served by approved public water and public sanitary sewer or community sewerage system, and electricity. All utilities shall be installed underground with above ground connections.

§4-5-5.8 Drainage. Drainage facilities shall be designed by an engineer and are subject to the approval of the County [City] Engineer as part of the site plan review process.

§4-5-5.9 Refuse Collection. Each manufactured home park shall provide refuse collection pads at locations convenient to each manufactured home space.

§4-5-5.10 Walkways. Sidewalks shall be required along one side of all interior streets and in areas where pedestrian traffic is expected, such as around recreation, management, mailbox groupings if provided, and community services areas.

§4-5-5.11 Park Rules. The property owner or manager shall submit operating rules and regulations governing the park to the Land Use Officer prior to occupancy.

§4-5-6 REQUIREMENTS FOR MANUFACTURED HOME SPACES

§4-5-6.1 Design. Each manufactured home space shall be designed and constructed at such elevation, distance, and angle with respect to its access to provide for safe and efficient placement and removal of manufactured homes or recreational vehicles, as the case may be. Each manufactured home space shall be designed with no more than a five- percent gradient and compacted with appropriate material to support maximum anticipated loads during all seasons.

§4-5-6.2 Width, Depth, and Size of Spaces and Markings. Each manufactured home space shall be at least 40 feet wide and 75 feet in depth. The minimum area for a manufactured home space shall be 3,000 square feet. The corners of each manufactured home space shall be clearly marked on the ground by permanent flush stakes, makers, or by other similar means. See Figure 4-5-5.1.1.

Commentary: This space size is designed to be large enough to accommodate a double-wide manufactured home. In the case of a recreational vehicle campground, these space sizes might be considered too large. For instance, Schneider (1977) finds that for recreational vehicle campsites, a space of no more than 1,500 square feet is needed, and "to provide campsites larger than 1,500 square feet would result in more disturbance to natural vegetation than is necessary." In the case of a recreational vehicle campground, the Resolution [Ordinance] might provide for a smaller space size or alternatively, that the Land Use Officer or Board of Appeals may approve reduced widths, depths, and sizes of the spaces and distances between units for recreational vehicles.

§4-5-6.3 Stands. Each manufactured home space shall be provided with a concrete pad of sufficient size to accommodate the typical manufactured home to be located within that

space, and the pad should be large enough to accommodate a patio of at least 180 square feet and also provide for the anchoring of the home to secure it against movement; provided, however, that any individual stand shall be no less than 14 feet by 60 feet and spaces intended to serve double-wide homes shall be at least 24 feet by 60 feet. (See Figure 4-5-5.1.1).

§4-5-6.4 Use of Spaces. No more than one manufactured home or recreational vehicle shall occupy any individual space. Use of a mobile home shall not be permitted in the manufactured home park. Accessory uses and structures on individual spaces may be permitted, subject to compliance with the development standards provided in this Resolution [Ordinance].

Commentary: As distinguished from a manufactured home, this model ordinance defines "mobile homes" as homes constructed before 1976, and which do not meet federal standards. Due to the safety hazards inherent in not having a federal inspection, and considering the fact that such structures are now at least 25 years old and have little if any remaining value, mobile homes should be banned outright from a community.

Commentary on Occupancy: This model ordinance does not place limitations on the duration of occupancy. In the case of a recreational vehicle, local policy must come to grips with the sensitive issue of whether recreational vehicles are appropriate for long-term and even permanent occupancy. Some jurisdictions may wish to place limitations on the permanent occupancy of recreational vehicles within campgrounds or manufactured home parks, because of the impacts permanent residents will have on local community facilities, such as schools. Typically, length of stay regulations limit occupancy to 30 days in any 60-day period; no more than 90 days in any 120-day period; or no more than six months in any 12-month period. Some ordinances prohibit permanent occupancy of recreational vehicles altogether (Schneider 1977) or do not permit them in manufactured home parks.

§4-5-6.5 Space Identification Numbers. Manufactured home space numbers at least four inches in height shall identify each space and shall remain readily identifiable while in use.

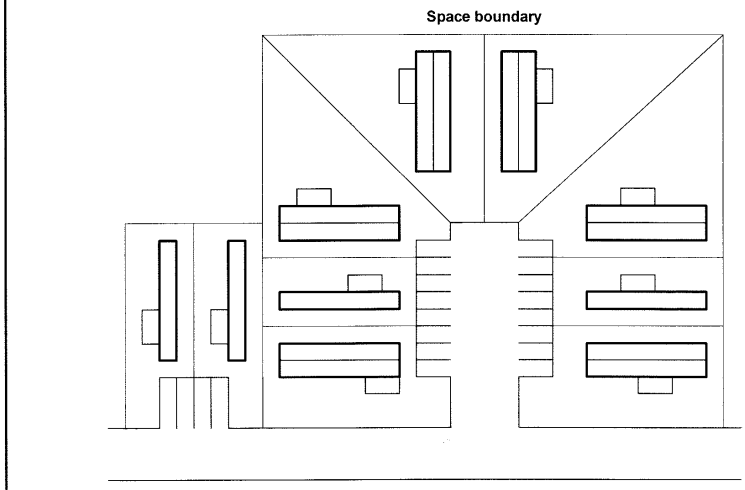
§4-5-6.6 Parking. Two on-site parking spaces shall be provided on each manufactured home space or immediately off-site. (See Figure 4-5-5.1.2).

§4-5-6.7 Walkways. A walkway at least two feet wide must be provided from each individual space to connect the manufactured home with the common walk or street. (See Figure 4-5-5.1.2).

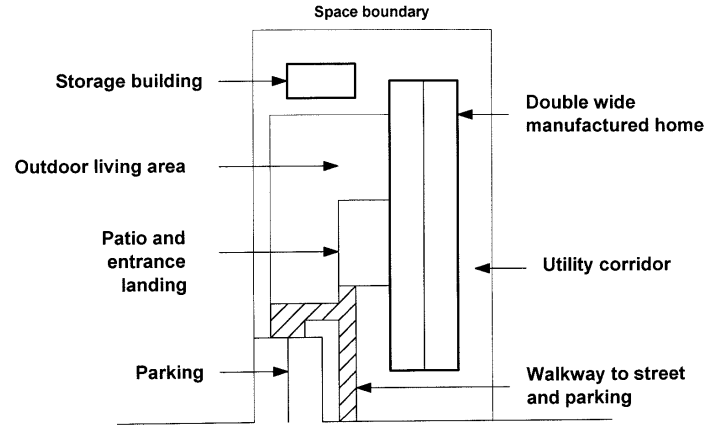
§4-5-6.8 Setbacks. No manufactured home shall be located closer than five feet to a manufactured home space boundary, and spaces shall be designed to provide for a minimum of 15 feet of separation between manufactured homes on abutting spaces. (See Figure 4-5-5.1.1).

§4-5-6.9 Additions and Accessory Structures. Decks, porches, outdoor storage, or other exterior additions may be constructed or erected on a manufactured home space, subject to the approval of the manufactured home park management. No such accessory structure shall be located closer than five feet to a manufactured home space boundary. See Figure 4-5-5.1.2).

Figure 4-5-5.1.2



Illustrative Manufactured Home Park



Manufactured Home Park Space Detail

Not to scale

§4-5-6.10 Maximum Density. The total number of spaces and total number of manufactured homes or recreational vehicles within the manufactured home park shall not exceed 10 homes or vehicles or combination thereof per acre.

Commentary: Ten units per acre is the maximum density that can be accommodated given the development standards suggested in this model Resolution [Ordinance] (i.e., space sizes, percentages of open space and active recreation, road requirements, etc.). Local governments might opt to establish a lower density, such as eight homes or vehicles per acre, to avoid an appearance of overcrowding. However, as noted by Bair (1965), who does not specify a maximum density in his model ordinance for mobile home parks: "If spacing and yards are adequate and suitable sewerage, water supply, access, and interior streets, off-street parking, recreational space and community facilities are required, a type of direct performance standards has been applied which make crude density limits unnecessary in the achievement of the objectives of public controls."

References:

Bair, Jr., Frederick H. 1965. Local Regulation of Mobile Home Parks and Travel Trailer Parks and Related Facilities. Chicago: Mobile Homes Research Foundation.

Forsyth County, Georgia, Unified Development Code. 2001. Article XI, R-4 Manufactured Home Park District.

Sanders, Welford. 1993. Manufactured Housing Site Development Guide. Planning Advisory Service Report No. 445. Chicago: American Planning Association.

Schneider, Devon M. 1977. Zoning for Recreational Vehicle Parks. Planning Advisory Service Report No. 326. Chicago: American Society of Planning Officials.

§4-6 ANIMAL FEEDING OPERATIONS

CONTENTS

§4-6 ANIMAL FEEDING OPERATIONS

Commentary: This module presents a modification of a model ordinance for animal feeding operations prepared by a work group in the state of North Dakota.

§4-6-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the Animal Feeding Operations Resolution [Ordinance] of _____ County.

§4-6-2 PURPOSE

This Resolution [Ordinance] addresses the need to reduce land use conflicts between farms and rural property owners. Normal farming operations such as animal production can create odors, flies, and noise. Concentrated animal feeding operations present safety hazards, affect natural resources and surrounding areas, and infringe on the rights of others if left unregulated. This Resolution [Ordinance] is intended to protect the rights to practice farming while fostering compatibility with nearby land uses. It sets reasonable standards for concentrated feeding operations based on the size of operation.

§4-6-3 DEFINITIONS

Animal feeding operation: A place where livestock have been, are, or will be, confined, concentrated, and fed for 45 or more days in any 12-month period. Pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season and animal waste or manure accumulates. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation if they use common areas or systems for manure handling.

Livestock: Any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, sheep, swine, poultry and horses.

Manure: Fecal material and urine from livestock, as well as animal-housing wash water, bedding material, and precipitation that comes in contact with fecal material or urine.

Operator: An individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations.

Surface water: Waters of the state located on the ground surface such as lakes, reservoirs, rivers, streams and creeks.

Waters of the state: All waters within the jurisdiction of the state, including all creeks, streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partially within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.

§4-6-4 EQUIVALENT ANIMAL NUMBERS

An “animal unit equivalent” is a unitless number developed from the nutrient and volume characteristics of manure for a specific livestock type. The term “animal units” is used to normalize the number of animals (e.g., head) for each specific livestock type that produces comparable bulk quantities of manure. The animal unit equivalents for types of livestock and the numbers of livestock for facility size thresholds of 300 animal units (a.u.), and so forth, are listed in the following table.

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of the Livestock (Head) for Four Sizes (Animal Units)) of Animal Feeding Operations			
		300 Animal Units	1,000 Animal Units	2,000 Animal Units	5,000 Animal Units
1 horse	2.0	150 head	500 head	1,000 head	2,500 head
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder – finishing	1.0	300	1,000	2,000	5,000
1 beef feeder – backgrounding	0.75	400	1,333	2,667	6,667
1 swine, > 55 lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 swine, nursery	0.1	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.01	30,000	100,000	200,000	500,000

§4-6-5 ENVIRONMENTAL PROTECTION

The operator of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The operator of an existing facility is expected to operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources on public safety and health. Each operator shall comply with applicable state laws and rules.

§4-6-6 WATER RESOURCE SETBACKS

The operator of a new animal feeding operation that has more than 1,000 animal units shall not locate or establish such an operation:

(a) Within a delineated source water protection area for a public water system;

(b) Within a groundwater recharge area defined by Section 2-1-1 of this code;

(c) Within 1,200 feet of a private ground water well which is not owned by the operator or within 1,500 feet of a public ground water well; or,

(d) Within 1,000 feet of surface water.

§4-6-7 ODOR SETBACKS

An owner of property shall locate and establish a residence, business, church, school, public park, or subdivision for residential use so as to provide a separation distance from any existing animal feeding operation. The separation distances, or setbacks, are listed in the following table. An owner of property who is an operator of an animal feeding operation may locate the owner's residence or business within the setbacks, subject to compliance with any other applicable regulations.

Setback Distances for Animal Feeding Operations		
Number of Animal Units	Hog Operations	Other Animal Operations
Fewer than 300	None	None
300-1,000	2,640 feet	2,640 feet
1,001-2,000	3,960 feet	2,640 feet
2,001-5,000	5,280 feet	3,960 feet
5,001 or more	7,920 feet	5,280 feet

The owner of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property platted for residential use so as to meet or exceed the corresponding listed setback from these places.

A local government may, upon recommendation of the Land Use Officer, decrease a setback distance for a new animal feeding operation after consideration of the proposed operation's plans, if he or she determines that a lesser setback distance is acceptable based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

Commentary: The separation distances (setbacks) for animal feeding operations, presented above, were balanced with the North Dakota odor standard. North Dakota's odor standard makes an odor concentration of seven or more odor concentration units a violation of the standard at distances greater than one-half mile. Reported information indicates that the amount of odors produced by confined swine feeding operations are greater than amounts of odors produced by other livestock types. After odors are released from animal-housing or manure-storage structures, the atmosphere governs the downwind transport and dispersion of the odors. The strength of odors released into ambient air and transported from animal feeding operations depends on the construction of the animal housing and manure storage units and the

topography of the site, as well as the type and number of animals. The Land Use Officer may take these variables into account when considering reductions of odor setbacks in cases where they would pose an undue hardship.

§4-6-8 PERMIT REQUIRED

The operator of a new livestock facility or an existing livestock facility, which meets the definition of an animal feeding operation and which is listed below, shall apply for and obtain an animal feeding operation permit.

(a) A new animal feeding operation that would be capable of handling, or that expands to handle, more than 1,000 animal units.

(b) An existing animal feeding operation that expands to handle more than 1,000 animal units.

§4-6-9 APPLICATION REQUIREMENTS

An application for an animal feeding operation permit shall be submitted to the Land Use Officer for approval. The application shall include a site plan at an engineering scale. A registered land surveyor or a civil engineer shall prepare the scaled site plan if the facility will handle more than 1,000 animal units. The Land Use Officer may require any or all of the following additional elements in the site plan review process when needed to determine the nature and scope of the animal feeding operation:

(a) Proposed number of animal units.

(b) Total acreage of the site of the facility.

(c) Existing and proposed roads and access ways within and adjacent to the site of the facility.

(d) Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.

(e) A copy of any permit applications required by state regulatory agencies.

§4-6-10 ACTION ON PERMIT

The Land Use Officer shall review the permit application and render a decision to approve, approve with conditions, or deny the application. The only basis for denial of the application

shall be failure to meet the specific terms of this Resolution [Ordinance]. If the Land Use Officer has not acted on a completed application within 30 days, the application shall be deemed approved without conditions.

§4-6-11 ENFORCEMENT

In the event of a violation of this Resolution [Ordinance], the Land Use Officer, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the operator corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period of time as set by the Land Use Officer, the permit may be revoked.

§ 4-6-12 APPEAL

Any person aggrieved by a decision of the Land Use Officer in the administration and interpretation of this Resolution [Ordinance] may appeal said decision to the Board of Appeals in accordance with Section 7-2 of this code.

References:

Zoning Working Group for Animal Feeding Operations. 2000. A Model Zoning Ordinance for Animal Feeding Operations. Bismarck, ND: North Dakota Department of Health. There is also a Planning Advisory Service Report on this topic published by the American Planning Association.

§4-7 RURAL CLUSTERING

CONTENTS

§4-7 RURAL CLUSTERING

"A new rural sprawl is consuming large amounts of land, splitting wide open spaces into fragments that are useless for agriculture, wildlife habitat, or other rural open space purposes" (Pivo, Small and Wolfe 1990).

Commentary: This module has been specifically developed for counties that have subdivision regulations (or that adopt modules 2.2 and 2.3 of this model code) and are concerned with the aesthetic, environmental, and economic impact of large lot residential subdivisions. A mandatory rural cluster regulation, if adopted and applied, can provide for more compatible rural subdivisions and help preserve active farmland.

Legal Commentary: Because this module identifies areas in accordance with a land use map, legal counsel recommends that if be adopted in accordance with the Zoning Procedures Act.

§4-7-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Rural Cluster" Resolution [Ordinance] of _____ County.

§4-7-2 PURPOSE AND INTENT

The purpose of this Resolution is to provide for small lot residential development in agricultural, forestry, and rural residential districts in a manner which maintains rural character, maintains and conserves larger remainder parcels, protects and/or enhances sensitive environmental and wildlife habitat areas, and minimizes impacts to necessary public services. This Resolution [Ordinance] is intended to help maintain resource land and rural character by protecting, preserving and conserving existing resource lands, rural landscapes, and viewsheds. These goals are achieved by allowing the placement of homes on a small portion of the property, while maintaining the majority of the site in a remainder parcel which constitutes resource land or open space. These regulations are consistent with, and are designed to implement, the goals and policies of the county's comprehensive plan as they relate to the protection of resource lands, the conservation of open spaces, and the maintenance of rural character.

§4-7-3 DEFINITIONS

Remainder parcel: The remainder parcel of the cluster provision that contains the majority of the land within the development and is devoted to open space, resource land, or other authorized use.

§4-7-4 APPLICABILITY

This ordinance shall apply to all preliminary plat applications involving property in any area designated as agricultural/forestry in the county's comprehensive plan, or in any area designated for rural residential use in the county's comprehensive plan but which contains significant active agricultural or forestry operations. At its discretion, the Planning Commission may interpret this jurisdiction within a broader context, if the commission finds that public policies adopted by the local governing body support a broader jurisdiction than that stated in this section.

§4-7-5 RURAL CLUSTER MANDATE

§4-7-5.1 Planning Commission Authority. The Land Use Officer may recommend, and the Planning Commission is hereby authorized to require, that any applicant of a major

subdivision in any area designated as agricultural/forestry in the county's comprehensive plan, or in any area designated for rural residential use in the county's comprehensive plan but which contains significant active agricultural or forestry operations, to rearrange land subdivision proposals in a manner that complies with the purpose and intent and the specific provisions of this Resolution [Ordinance). To this end, the Planning Commission is hereby authorized to deny a preliminary plat for property located in said agricultural/forestry or rural residential areas which does not meet the requirements of this Resolution [Ordinance]. The Planning Commission shall also be authorized to waive the requirements for minimum lot sizes, lot widths, and yards as may be required by Section 6-1 of this code, in specific instances and upon application, but only to the minimum extent necessary to permit a cluster subdivision to comply with this Resolution [Ordinance]; provided, however, that the Planning Commission is not authorized to increase an overall gross density of development on a property that is otherwise not permitted by county land use regulations.

§4-7-5.2 Additional Requirements. As part of the preliminary plat review process, the Land Use Officer or Planning Commission may require that the applicant identify usable agricultural, forestry, and open space land on the property proposed for subdivision. The Planning Commission may encourage efforts by the subdivider to preserve and/or promote agricultural, forest, or open space use and may require the retention of some of the usable agricultural or forest land or open spaces that meet the purpose and intent and specific provisions of this Resolution [Ordinance].

§4-7-5.3 Requirements for Denying a Preliminary Plat. To deny a subdivision plat under the authority of this Resolution [Ordinance], the Planning Commission or Land Use Officer must have informed the applicant of a rural cluster mandate and instructed the applicants on the requirements of this Resolution [Ordinance), and made a finding that the proposed preliminary plat has not been designed in accordance with the provisions of this Resolution [Ordinance] as broadly interpreted by the Land Use Officer and Planning Commission.

§4-7-5.4 Appeal. Any action by the Planning Commission's action to apply the rural cluster mandate or to otherwise invoke its authority pursuant to this chapter as applied to a specific property, upon approval of a preliminary plat requiring such mandate, may be appealed by the property owner to the Board of Appeals as provided for in Section 7.2 of this code.

§4-7-6 RELATIONSHIP TO LAND SUBDIVISION REGULATIONS

This Resolution [Ordinance] is intended to work as a special addition to the county's land subdivision regulations codified as Section 2-2 of this code. All requirements of Section 2-2 and improvement requirements of Section 2-3 of this code shall apply unless the context clearly indicates otherwise or unless this Resolution [Ordinance] conflicts with said code sections, in which case this Resolution [Ordinance] shall apply.

§4-7-7 DESIGN REQUIREMENTS RURAL CLUSTERS AND CLUSTER LOTS

§4-7-7.1 Density Clustering. The permitted residential development density for the property proposed to be subdivided, shall be used within cluster lots (see Figure 4-7-7.1 and Figure 4-7-7.2), and the remainder parcel shall be utilized for agriculture or forest land or for open space.

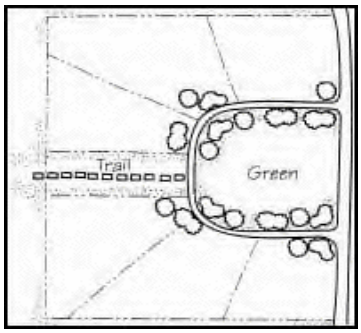
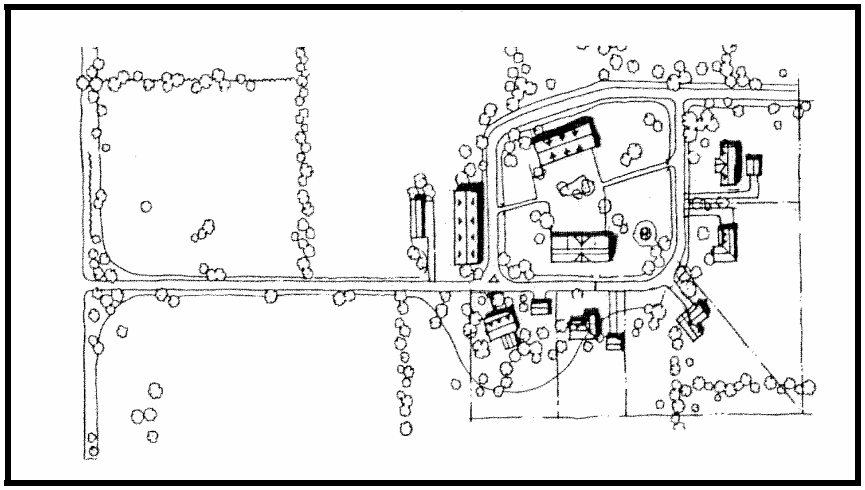


Figure 4-7-7.1.1
Rural Cluster

Figure 4-7-7.1.2 Rural Cluster



Source: Arendt 1994.

§4-7-7.2 Area of Lots. Cluster lots shall contain a minimum area necessary to meet health department requirements. Where permitted by the county heath department, the cluster subdivision may consist of lots smaller than the sizes required for individual on-site sewage management systems (i.e., septic tanks), if adequate provisions are made for common drainfields (see Figure 4-7-7.2.1), subject to the approval of the local health department. No cluster lot shall be greater than two acres in size, so as to encourage the maximum amount of land possible preserved for resource use or open space.

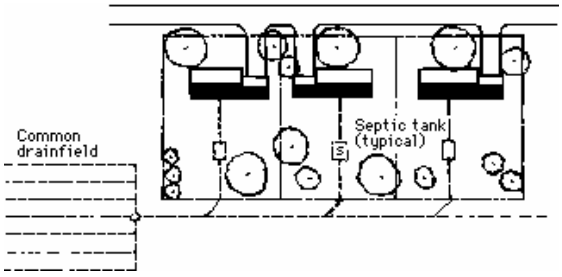


Figure 4-7-7.2.1
Common Drainfield

§4-7-7.3 Locations of Clusters.

(a) In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.

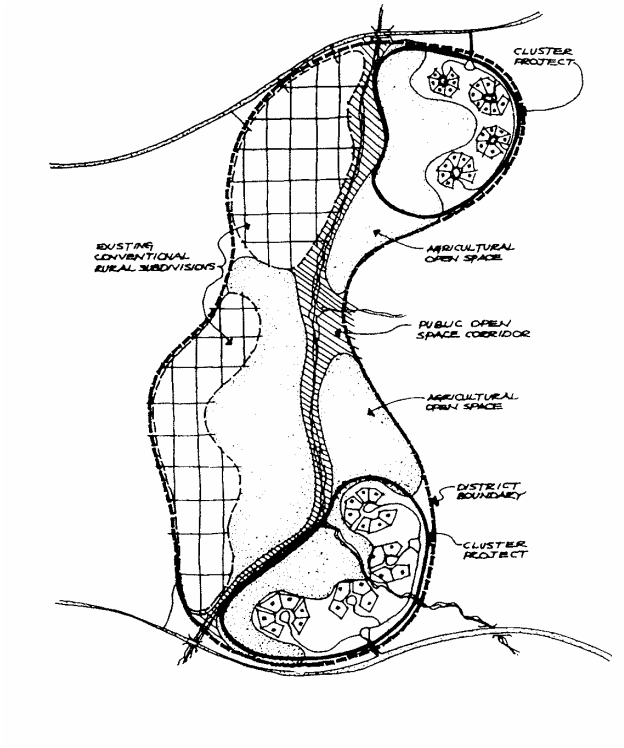
(b) A rural cluster subdivision may contain one or more residential clusters grouped into compact neighborhoods.

(c) To the maximum practicable extent, existing historic rural features shall be preserved as part of the cluster development. These features include but are not limited to rock walls, fences, functional and structurally safe farm buildings, monuments, and landscape features.

(d) Buildings shall be clustered or sited in the most accessible, least visually prominent, and most geologically stable portion or portions of the site.

(e) Rural clusters shall be limited to locations that minimize the visual impact from adjacent lands and view corridors. Placing buildings so that vegetation, rock outcroppings, depressions in topography, or other natural features will screen them where they exist shall minimize the prominence of construction. In wooded or forested areas, the Land Use Officer may recommend and the Planning Commission may require the scattering of buildings so as to save trees and minimize visual impacts.

Figure 4-7-7.3.1
Rural Cluster Locations



Source: Pivo, Small and Wolfe 1990.

(f) Cluster lots shall be sited to minimize conflicts between housing and adjacent agricultural or forest zoned property.

(g) All cluster lots should be located on the least productive soils, but they should not include environmentally sensitive areas unless no other alternative exists. If no alternative is available, encroachment into prime agricultural soils or environmentally sensitive areas shall be limited to the least amount possible.

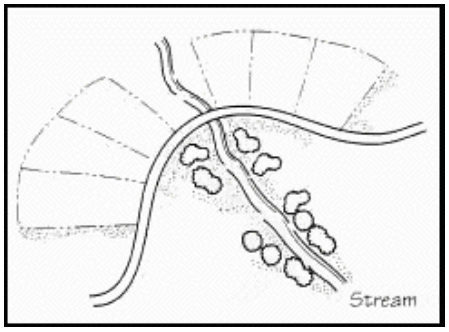
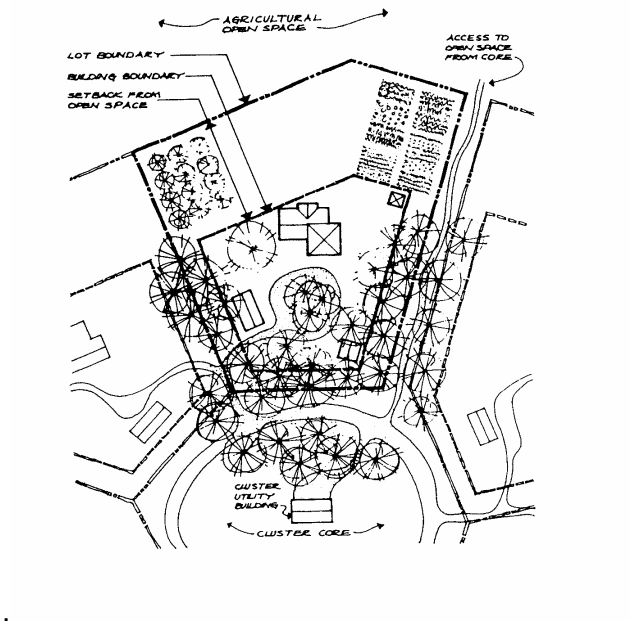


Figure 4-7-7.3.2
Rural Cluster Preserves Stream

(h) Cluster lots should border on open space on at least one side, and have access to any core open spaces in the rural cluster.

Figure 4-7-7.3.4
Cluster Lot



Source: Pivo, Small and Wolfe 1990

§4-7-8 DESIGN REQUIREMENTS FOR REMAINDER PARCELS

The cluster development shall result in the establishment of a remainder parcel comprising a minimum of 40 percent of the land area to be subdivided. Any remainder parcel shall be contiguous except in the most unusual circumstances. Any remainder parcel shall not be fragmented by public or private road easements unless no other reasonable alternative exists. To the maximum extent possible, all environmentally sensitive areas on property proposed for subdivision shall be located within the remainder parcel. To retain the rural character, the remainder parcel should contain to the maximum extent possible forested areas, active agriculture, meadows, pastures, and prominent hillsides or ridges if they exist.

§4-7-9 OTHER DESIGN REQUIREMENTS

Subdivision identification monuments shall not be permitted unless approved by the Planning Commission, and only in such cases as the monument retains the rural or resource character of the area. This shall not be construed to prohibit landscaping at the entrance of a rural cluster subdivision.

Sight obscuring fences are not permitted within 50 feet of the public right-of-way, nor along cluster lot lines adjacent to any remainder parcel.

§4-7-10 RESOURCE LAND AND OPEN SPACE RETENTION

Active agricultural or forest land, or agricultural or forest land not presently in use, may be preserved in its current use or proposed to be made available on a lease basis in the future for compatible agricultural or forestry uses. The primary intent shall be to preserve open lands for agricultural or forest use, not to provide open space/recreational land uses which will interfere or be in conflict with agricultural or forestry operations.

The Planning Commission shall require that any such resource lands or open spaces to be preserved be shown on the preliminary and final plat as required by Section 2.2 of this code. Any areas within the subdivision which are designated on the preliminary plat and final plat as being a common, recreation, park, open or other similar non-resource area shall be encumbered in a manner suitable to the Planning Commission to assure that such area will in some manner be beneficial to the owners of the building sites within the proposed subdivision and that said areas will not be available for development in any manner inconsistent with the intent of this Resolution [Ordinance].

§4-7-11 RESOURCE USE MANAGEMENT PLAN

In cases where land is proposed to remain in farm or forest (i.e., resource) use, the Planning Commission shall require a farm or forest management plan for the remainder parcel to be submitted and approved prior to approval of the preliminary plat. The management plan shall describe the nature and intensity of large scale agricultural or forestry uses, permitted uses and management of the parcel so that it maintains its resource other designated functions. The management plan shall identify the responsibility for maintaining the remainder parcel. The plan shall also include any construction activities (trails, fencing, agricultural buildings) and vegetation clearing that may occur on-site. All subsequent activities must be conducted in conformance with the approved management plan.

§4-7-12 OWNERSHIP AND MANAGEMENT OF RESOURCE LAND OR OPEN SPACE

The Planning Commission may require the creation of a homeowner's association or other organization for ownership and maintenance of lands to be preserved for agriculture, forestry, and/or open space use (i.e., remainder parcels). Land to be preserved as open space may be dedicated by fee title to the county, subject to the approval of the Board of County Commissioners. If accepted in fee simple title, the county or other designated public jurisdiction will maintain all open space lands accepted in fee title.

Commentary: This module provides a minimal amount of guidance with regard to protecting open spaces and resource lands. Local governments that wish to consider this issue more extensively will want to discuss such issues as how to involve land trusts and provide for conservation easements.

References:

Arendt, Randall, et al. 1994. Rural by Design. Chicago: Planners Press.

Clark County, Washington. Rural Cluster subdivisions (zoning)

Jefferson County, Colorado, Rural Cluster regulations.

Pivo, Gary, Robert Small, and Charles R. Wolfe. 1990. Rural Cluster Zoning: Survey and Guidelines. Land Use Law and Zoning Digest 42, 9: 3-9.

§ 4-8 SCENIC CORRIDOR OVERLAY DISTRICT

§ 4-8 SCENIC CORRIDOR OVERLAY DISTRICT

<u>Commentary on How this Module Fits in the Model Code</u>: As with most of the modules included in this Model Code, there are various alternatives as to how it may fit into a local government's development regulations. A scenic corridor designation could be applied locally as its own land use intensity district, thus it could be incorporated into § 6-1 of this Model Code. The approach taken here, however, is to add the scenic corridor regulations as an overlay district. This module is written to fit with § 6-1 of this Code; if the local government has not adopted 6-1 or another land use district or zoning scheme, then the approach taken here will need to be modified. With only slight modifications, this module can be adopted as a stand-alone ordinance in areas that do not have underlying land use or zoning districts.

Commentary on Scenic Corridor Planning: The comprehensive plan should be consulted as it relates to scenic views and sites (see natural and historic resources element). Additional work to inventory and assess resources will probably be needed. There are a variety of scenic resource protection and enhancement strategies and techniques that might apply in any local scenic corridor protection program. Inventorying scenic resources using acceptable techniques is a critical component of any scenic corridor planning and regulatory program. Inventory and assessment techniques include review of local historic resources inventories (if available), windshield surveys of natural features and land uses within potential scenic corridors, and analyses of ecological, physiographic and hydrological characteristics of the landscape from available maps and field reconnaissance. Methods used in determining which roads merit "scenic" designation vary, but they are usually based on the professional judgments of experts, often landscape architects.

Commentary on public management of the scenic roadway: Public roadway features, such as signs, roadside erosion control, drainage and materials storage certainly have a major impact on the scenic quality and character of a scenic corridor. Local governments should give equal attention to managing the public right-of-way portion of the scenic corridor. These are "non-regulatory" considerations and, therefore, are not discussed here.

§ 4-8-1 PURPOSE AND INTENT

Motorists sometimes drive for the inherent pleasure of driving. Driving a scenic road should be a pleasurable recreation experience. When a road passes through an attractive landscape, a considerable portion of a motorist's perceptual activity is directed to the roadside environment. The visual character of a road depends on a number of factors, some of which cannot be significantly modified (e.g., physiography), while others such as land use are more readily subject to change. It is the intent of this Resolution [Ordinance] to protect the views from the road to natural conditions, archaeological sites and other features with historic quality. This Resolution [Ordinance] is also intended to regulate land uses so that they will complement rather than detract from a scenic experience. It is also intended to provide tree canopies and to preserve rural character.

§ 4-8-2 DEFINITIONS

Archaeological site: Ruins, artifacts, structural remains and other resources of types that cannot be commonly found throughout a region or in other places across the country, and/or physical evidence of historic or prehistoric human life or activity that are visible and capable of being inventoried and interpreted.

Historic quality: Legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or man-made, that are of such historic significance that they educate the viewer and stir appreciation of the past.

Natural quality: Those features of the visual environment, such as geological formations, fossils, landforms, water bodies, vegetation and wildlife, that are in a relatively undisturbed state. There may be evidence of human activity but the natural features reveal minimal disturbances.

Scenic corridor: A roadway and its accompanying right-of-way that offers motorists the unobstructed opportunity to view scenic views and scenic sites in one or more directions, and which usually has a high percentage of open landscape within and alongside it. A corridor may include adjacent private property, depending on the context.

Scenic site: A building, structure, field, resource, natural condition or other feature that has scenic qualities and which has been specifically identified by the county [city] in the natural and historic resources element of its comprehensive plan or other inventory and assessment as worthy of protection because of its scenic qualities.

Scenic view: A scene that offers significant viewing opportunities beyond a maximum distance of one-quarter mile.

Setback: The minimum distance by which any building or improvement must be separated from a right-of-way boundary.

Viewshed: The surface area that can be seen from a specific viewpoint along the road.

§ 4-8-3 SCENIC CORRIDOR DESIGNATION

There is hereby established one or more scenic corridors as shown on the Scenic Corridor Overlay District Map, which is hereby adopted and made a part of this Resolution [Ordinance]. Development within a designated scenic corridor shall comply with the provisions of this Resolution [Ordinance].

It is the intent that the Scenic Corridor Overlay District shall apply to all properties within 1,000 feet of the following roads and highways:

(a) [Name and describe the extent of the corridor]
(b) [Name and describe the extent of the corridor]

Commentary: An overlay district can be shown as a separate map or incorporated into the land use intensity district or zoning district map(s). Even if a map is prepared and adopted, it is useful to designate and describe the extent of the scenic corridor(s) in the text of the ordinance.

§ 4-8-4 APPLICATION AND EXCEPTIONS

All new development within the Scenic Corridor Overlay District shall comply with the provisions of this Resolution [Ordinance], except that the following shall be exempt from compliance with this Resolution [Ordinance]:

(a) Public buildings, structures and uses.
(b) Farm or agricultural-related structures outside the roadway buffer.
(c) Single-family dwellings and manufactured homes on an existing lot of record.
(d) Developments existing on the effective date of this Resolution [Ordinance], provided that expansions or additions to existing development on or after the effective date of this Resolution [Ordinance] shall be subject to compliance with these regulations.

Commentary: See § 6-1 for appropriate definitions of public use and manufactured home. The local government may decide that other exemptions are appropriate. If so, they should be enumerated here.

§ 4-8-5 EXISTING CONDITIONS ANALYSIS AND SITE PLAN REQUIRED

Any new development that is required to comply with this Resolution [Ordinance] shall not be approved until the applicant therefore has submitted an existing conditions map and a site plan of the proposed development. When a preliminary plat is required to be filed for a subdivision in accordance with § 2-2 of this Code, this Resolution [Ordinance] shall be administered and enforced at the time a preliminary plat is filed as part of the subdivision review process by the

Land Use Officer and the Planning Commission. In other cases such as a development permit or building permit, this Resolution [Ordinance] shall be administered and enforced by the Land Use Officer in connection with said permitting process.

Commentary: This provision assumes local government adoption of 2-2, Subdivision and Land Development, and 7-3, Planning Commission. If not, this provision will require modification.

§ 4-8-6 ADOPTION AND INCORPORATION BY REFERENCE

The following provisions are hereby adopted and incorporated by reference in this Resolution [Ordinance]:

§ 4-4, Manufactured Home Compatibility Standards.
§ 4-7, Rural Clustering.
§ 5-3, Design Guidelines (all or most provisions should apply)

Commentary: Local governments that have already adopted the sections of the Model Code referenced above and have made them applicable to the land areas within the designated scenic corridor do not need to readopt these provisions. If such provisions have not been so adopted, they should be included verbatim here (or adopted as modules themselves) as opposed to being adopted by reference. Those provisions are not repeated here, so as to avoid duplication in this Model Code.

§ 4-8-7 SETBACK, BUFFERS, TREES, AND LANDSCAPING

§ 4-8-7.1 Development Setback. All developments shall maintain a one hundred-foot setback for all buildings, structures and property improvements such as parking lots, except for approved road, driveway and utility crossings.

§ 4-8-7.2 Roadway Buffer. A roadway buffer of at least forty (40) feet shall be provided within the required development setback, abutting the right-of-way of the scenic corridor. Where existing trees and significant vegetation exist within the roadway buffer, they shall be retained as determined appropriate and directed by the Land Use Officer. Where such existing trees and significant vegetation are sparse, they may require revegetation as directed by the Land Use Officer. Vegetation within a roadway buffer that is required to remain within a roadway buffer

may be pruned and/or removed only if necessary to ensure proper sight visibility, remove safety hazards or dying or diseased vegetation, or for other good cause as approved by the Land Use Officer.

§ 4-8-7.3 Uses Within Roadway Buffer. Signage and other minor accessory features of the development may be included within the roadway buffer if compatible with the purpose of the roadway buffer or essential to the identification of the development, subject to the approval of the Land Use Officer.

§ 4-8-7.4 Exceptions to Roadway Buffer for Scenic Viewshed Protection. When the application of the roadway buffer requirement of this Resolution [Ordinance] would have the practical effect of screening from view important scenic sites, natural qualities or historic qualities, the Land Use Officer may permit a modification of these provisions so that views of such sites or qualities are retained. The intent of this provision is to preserve lines of sight to view distant scenery from scenic corridors.

§ 4-8-7.5 Exceptions for Product Viewing. For developments containing commercial uses and which require the display of goods in view from the road, the Land Use Officer may, upon application, permit a modification of the development setback, roadway buffer and screening requirements of this Resolution [Ordinance] to allow for reasonable but limited view of commercial products from the road, provided that no such product view area shall extend more than twenty (20) percent of the total length of the property frontage along the scenic corridor.

§ 4-8-7.6 Landscaping Plan. A landscaping plan showing all existing and proposed features, including trees, roadway buffer and other relevant features of the landscape within the development setback, shall be required to be approved by the Land Use Officer. Landscaping shall be installed by the development applicant in accordance with the approved landscape plan. Native plant materials are particularly encouraged, although the use of ornamental plant materials (such as azaleas) may be approved by the Land Use Officer if planted in a naturalistic manner and allowed to develop in their natural form.

§ 4-8-7.7 Tree Requirement. All development subject to this Resolution [Ordinance] shall provide a minimum of one (1) tree for each thirty-five (35) linear feet of road frontage along the scenic corridor. All trees required by this section shall be located within the first fifty (50) feet of the required development setback. All required trees planted within the development setback shall be of a shade-type variety with a minimum caliper of two and one-half (2.5) inches at planting and an expected height at maturity of at least thirty (30) feet.

Commentary: For additional considerations in planting trees, see Section 3-9 of this Model Code.

§ 4-8-8 PROVISIONS REGARDING BUILDINGS AND STRUCTURES

§ 4-8-8.1 Screening. To the extent that the required roadway buffer does not provide screening of buildings, structures, parking lots and service and loading zones included in a development, except for approved product viewing areas, there shall be additional landscaping, walls, fences, hedges, shrubbery and/or earthen berms to provide the necessary screening.

§ 4-8-8.2 Height. No building, structure or sign shall exceed the following heights limits, which are designed to have a "step-back" effect to preserve viewsheds. Cross-section drawings showing how proposed structures meet the height requirements of this Resolution [Ordinance] may be required by the Land Use Officer to ensure compliance with this section.

§ 4-8-8.3 Utilities. All utility lines serving uses proposed or developed within the scenic corridor, including electric, telephone, data and CATV, shall be installed underground within the roadway buffer and development setback area. Underground utility trenches must be revegetated. Utility boxes and cabinets that are now or must, by necessity, be located above ground must be shielded from view from the scenic corridor with existing vegetation and/or revegetation. Any above-ground boxes that cannot be buried shall, in addition to being screened by vegetation, shall be painted a neutral or earth tone color or otherwise made to blend in with their surroundings.

§ 4-8-8.4 Signage. Signs shall be permitted within the roadway buffer required by this Resolution [Ordinance], in accordance with provisions of this Section and subject to the approval of the Land Use Officer. Signs located outside (beyond) the roadway buffer are not subject to the requirements of this section.

Distance of Area Measured from Road Corridor Right-of-Way	Description of Area

(a) The total sign area of all signage on any one (1) lot shall not exceed sixty-four (64) square feet. A double-faced sign shall be considered a single sign. No more than two signs shall be permitted within the roadway buffer area per lot, except that this limitation shall not apply to signs pertaining to the identification of the scenic corridor and those signs and/or interpretive panels identifying and directing motorists to archaeological sites, historic sites and other similar non-commercial places and features of interest, or showcasing some of the history or other interest in the scenic corridor

(b) The sign or signs shall be mounted on 4" x 4" wooden posts. The posts and the back of the signs should be painted a single neutral color, such as dark brown, sage green or other approved earth tone or neutral color.

(c) The main supporting structure of all signs shall be set back at least five (5) feet from the edge of the right-of-way of the scenic corridor.

(d) No internally illuminated signs shall be permitted, nor shall any flashing, blinking, fluctuating or otherwise changing light source be permitted.

§ 4-8-8.5 Roads, Driveways and Paths. A road pattern, or characteristics of any road pattern, proposed as part of a development shall be designed and constructed to contribute to the scenic character of the landscape in view. New roads and driveways constructed within the scenic corridor shall not be dominant visually and there should be only a minimal amount of road in view within the roadway buffer. All roads, driveways and paths within the roadway buffer and within the development setback area shall be stabilized but unpaved. The use of asphalt, concrete or concrete curbing within the roadway buffer and within the development setback area shall be prohibited.

§ 4-8-8.6 Walls and Fences. Walls within or along the roadway buffer shall not be allowed, except for low-lying decorative stone walls for enhancement of the scenic corridor, or walls that are needed for slope stabilization. Privacy fences shall not be permitted within the roadway buffer or development setback area. Where permitted, walls shall be located so that scenic views are maintained. Walls must consist of natural materials and shall only be of those colors that blend with the vegetation or abutting landscape features.

§ 4-8-9 DESIGN REVIEW

No land disturbance permit, development permit or building permit shall be issued until the proposed development, structure, building or use complies with § 5-2 of this Code, Design Review.

Commentary: Design review is an especially appropriate tool for ensuring the maintenance of scenic character. Local governments are urged to consider requiring design review for all structures and buildings within the scenic corridor overlay district. Refer to § 5-2 of this Model Code for appropriate provisions on establishing a design review board and development review process.

§ 4-8-10 VARIANCES

If an applicant asserts that application of this Resolution [Ordinance] would deny the reasonable use of property, the applicant may apply for a variance. A variance is intended to provide a remedy to address those cases in which the application of this Resolution [Ordinance] unreasonably restricts all economic use of a parcel of land and the restriction cannot be remedied by other authorized techniques or conditions. A variance to the provisions of this Resolution [Ordinance] may be granted by the Land Use Officer, if the following circumstances are found to exist:

(a) The development applicant demonstrates there is practical difficulty in meeting the specific requirements of this section due to a unique or unusual aspect of the site or proposed use of the site; and
(b) The variance is the minimum necessary to alleviate the practical difficulty.

Commentary: As an alternative, local governments may choose to have variances determined on a case-by-case basis by a Board of Zoning Appeals. If so, this section should be changed to refer to § 7-2, Appeals and Variances, of the Model Land Use Management Code. Note that this module has variance criteria that are significantly different from those specified in § 7-2. Yet another alternative is to assign the variance review functions to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

§ 4-8-11 APPEALS

A developer or other party aggrieved by a decision of the Land Use Officer in the administration, interpretation or enforcement of this resolution [ordinance] may appeal said decision as provided in Section § 7-3 of this Code.

Commentary: Local governments adopting this appeal provision must provide the procedures or refer to an appeals procedure. Section 7-3 of the Model Land Use Management Code provides for appeal procedures, and this ordinance makes reference to that Code section. Local governments must also adopt § 7-3 in order to make this appeal provision work. Yet another alternative is to assign the appeal authority to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

§ 4-9 RURAL/SUBURBAN ARTERIAL CORRIDOR OVERLAY

§ 4-9 RURAL/SUBURBAN ARTERIAL CORRIDOR OVERLAY

Commentary: There are many state highways and rural arterial roads in Georgia. Properties fronting on and adjacent to roads form a "corridor" within which development is likely to occur, because arterial roads provide access and travelers on the road and visibility to the establishments alongside it. In areas where significant development is occurring, or is likely, the rural or suburban arterial road corridor is threatened by several aspects of development. First, the citizenry may value visual rewards that are created by open fields, agricultural outbuildings and the natural scenery of the rural terrain. Citizens and community leaders often regret the loss of rural character when commercial land uses begin to be constructed in haphazard fashion along the road.

As a few commercial uses are added along the road corridor, the expectations of property owners begin to change. Incremental development of commercial land uses along a rural or suburbanizing corridor, when spread out without a coherent pattern, results in "sprawl" (i.e., in this case, dispersal) and "strip" development (i.e., construction of single-function development along the roadway, usually on relatively shallow lots).

There are many reasons why rural and suburban arterial road corridors transition from a pastoral setting to a haphazard sprawl pattern of strip commercial development. Many landowners along the route believe that their land is ripe for commercial development. The locality may lack zoning controls that limit the types of land uses along the corridor. Sometimes, there are zoning regulations, but they are easily (and willfully) changed from agricultural or rural residential to commercial development. When commercial development applications are sought one at a time, decision makers lose sight of the cumulative impacts of individual development decisions on the corridor.

Development within rural arterial corridors can be managed by implementing an appropriate combination of land use tools, many of which are already provided in the Model Land Use Management Code. These include the following regulations:

- *Use. Land use intensity districts (see § 6-1) which limit the uses of land, and special regulations for specific uses (see § 3-5).*
- *Off-site impacts. Performance approaches (see § 3-1) to control unwanted "externalities" such as noise, odor, vibration, etc. or which require the abatement of nuisances (§3-6).*
- *Natural resource protection. Controls to prevent development in flood plains, wetlands, steep slopes and other environmentally sensitive areas (see § 2-1, environmental regulations).*
- *Land subdivision and development. Land subdivision and land development regulations (§ 2-2 and § 2-3) that require subdivision plat approval, establish standards for public improvements and control access to public roads.*
- *Large scale development. Regulation of larger-sized properties with planned development features (i.e., planned unit development, see § 3-8 and through major permit requirements (§ 6-4).*
- *Architecture. Design review (§ 5-2) and design guidelines (§ 5-3) to address the visual and architectural characteristics of development.*
- *Signage. Controls on the type, size and location of signs visible from the right-of-way (see § 3-7).*
- *Landscape. Landscaping and buffer regulations (§ 3-9) and tree protection (§ 3-4) regulations.*
- *Pattern. Management of the pattern of development so that it clusters rather than spreads across the land (see § 4-7, Rural Clustering) (also see land use guidance system in § 6-6, which promotes contiguous development patterns that might help to avoid haphazard, strip commercial development patterns).*

There are two other sections of the Model Land Use Management Code that take a "subarea specific" approach that can be useful in terms of arterial road corridor management: § 6-2, Interchange Area Development and § 4-8, Scenic Corridor Overlay District. These two approaches (regulatory modules) should be consulted for ideas, since both can be applied to corridors. Hence, local government planners interested in

arterial road corridor management can bring together the various land use management tools described above and apply them locally to ensure the corridor develops according to community preferences.

Every rural and suburban arterial corridor is unique and so are the preferences of citizens and elected officials in any given locality. Those differences make the preparation of model rural corridor development regulations a difficult task indeed. While the above-referenced regulations can afford basic protection and promote wiser development, they may not provide sufficient guidance about specific development patterns.

An accepted approach to regulating the pattern of development in rural and suburban arterial road corridors is to plan for future land uses, then zone the land for uses in a manner that guides development to intersections (i.e., following a nodal development pattern), thereby hoping to avoid a continuous strip commercial development corridor. Officials who decide on zoning applications have the ability to disapprove of commercial rezoning requests and they control the destiny of the corridor and can avoid strip commercialization. However, that is "easier said than done" when values of property in the corridor escalate and when property owners demand commercial use or threaten to litigate if denied that opportunity. Even though a community does not want strip commercial development and has the tools at its disposal needed to prevent it, strip commercialization of rural and suburban arterial road corridors can still occur anyway.

This module is written with the assumption that a local government has implemented a zoning or a land use intensity district scheme such as that provided in § 6-1 of the Model Code. A road corridor could be regulated via one of the zoning or land use intensity districts established in that Code. However, since planners more often establish separate overlay districts for corridors (after some study of existing conditions or preparation of a corridor plan), this module provides a separate set of regulations that can supplement those applicable via the zoning ordinance or other land use management regulations. Again, many other components of the Model Code can, in combination, help manage development in corridors. Local planners should consider this Code module in the context of other Model Code sections (identified above in this commentary) in developing regulations for their jurisdictions.

With regard to spatial development patterns, this corridor management tool is intended to establish commercial and mixed-use patterns of development at the intersections of arterial roads along the corridor (or at other appropriate locations designated in the comprehensive plan or corridor-specific plan). An activity node is created with the development of land surrounding a road intersection, referred to in this module as a "focus area." Focus areas (one for each quadrant/corner of the intersection) extend 1,320 feet (1/4 mile, or the usually accepted maximum walking distance) in both directions outward from each corner of the major road intersection. This creates development sites of 40 acres at each quadrant of the intersection, which is large enough to provide significant commercial uses (including regional-scale retailers), along with civic spaces, other institutional uses and stand-alone residential areas. It is the maximum size of an area that can be made pedestrian friendly, given the acceptable maximum walking distance of ¼ mile. Different types of land uses (e.g., commercial, office, residential, public, etc.) will likely locate in the focus areas, given the land use restrictions placed on development outside focus areas but inside the corridor. The mixing of uses, such as office and residential on the second and third floors of a building containing ground-level retail use, is permitted but can probably not be mandated by the regulations. Planners should consider how the development in one focus area of the node will complement the uses in the other focus areas of the node, to get the most appropriate, self-supporting mixture of complementary land uses.

§ 4-9-1 PURPOSE AND INTENT

The purposes of this Resolution [Ordinance] are to:

(a) Improve and enhance the aesthetic qualities of development within the arterial road corridor, by establishing an amenity zone adjacent to the corridor, within which amenity features are required, and through the implementation of other land use regulations.

(b) Ensure that sidewalks on individual development are provided to connect with the public sidewalk system.

(c) Manage the location and intensity of development within the arterial road corridor to avoid a strip commercial pattern and to concentrate development in focus areas.

(d) Ensure safe access by vehicles to destinations in the corridor in a manner that does not conflict with pedestrian access.

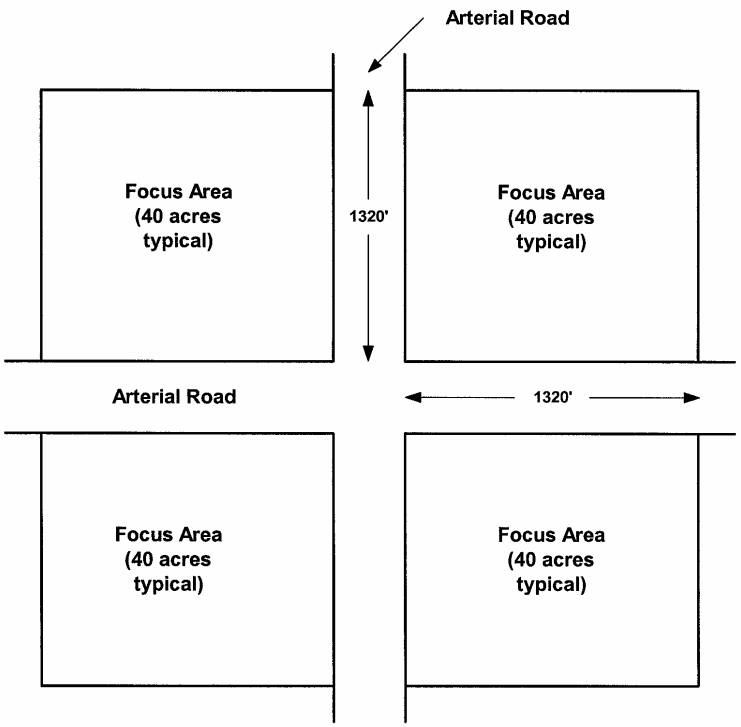
§ 4-9-2 DEFINITIONS

Amenity: Pedestrian shelters, gazebos, decorative paving, pathways and sidewalks, landscaping, retention ponds when designed according to the specifications of this Resolution [Ordinance], signage when scaled to the pedestrian and constructed of materials and sizes specified in this Resolution [Ordinance] and other aesthetic features and characteristics approved by the Land Use Officer.

Amenity zone: The area between the right-of-way of an arterial road and any principal building, or forty feet (40') from the right-of-way, whichever is less, within a focus area. The amenity zone is an area which may include landscaping, green space, retention ponds, signage, gazebos, pedestrian shelters, and pathways, or some combination of these, which are designed or provided to enliven the pedestrian experience.

Corridor: All lands located wholly or partially within 1,320 feet of the right-of-way of _____ [insert name of rural/suburban arterial road or roads].

Focus area: An area of land within the corridor, at the intersection (usually a quadrant) of the arterial road and any other intersecting arterial road, or those other intersections which have been designated in the county's [city's] comprehensive plan as an activity center or commercial/ mixed-use development node. Unless more specifically shown on the corridor overlay map, a focus area shall be generally limited to a square parcel of land extending 1,320 feet (1/4 mile) from the intersection to which it pertains in both directions along the arterial road rights-of-way. The focus area includes approximately 40 acres at each quadrant.



FOCUS AREAS

Street tree: A tree selected for its large canopy at maturity, approved by the Land Use Officer.

§ 4-9-3 APPLICABILITY

This Resolution [Ordinance] shall apply to all properties lying wholly or partially within the _____ [insert name of rural/suburban arterial road] corridor as shown on the official land use intensity districts map [or zoning map; or overlay district map], which is hereby adopted and made a part of this Resolution [Ordinance]. Said map may be amended in accordance with Section 7-1 of this Code. No clearing or other disturbance of land shall occur, and no building, structure or use shall be established, except in compliance with the provisions of this Resolution [Ordinance].

§ 4-9-4 PERMITTED USES IN FOCUS AREAS

Uses in the overlay district shall be governed by use restrictions and the dimensional requirements for the underlying land use intensity [or zoning] district in which the

property is located. In addition, uses shall be subject to the specific use provisions of this Code Section, as applicable. In the event of a conflict between the regulations of the underlying district and the corridor overlay district, this Code Section shall govern.

It is the intent of this Resolution [Ordinance] that lands within focus areas contain primarily commercial uses but are also developed with civic spaces, institutional uses and residences. Mixed uses, including residential use in the same building as commercial, office or other uses, are especially encouraged.

§ 4-9-5 PERMITTED USES OUTSIDE FOCUS AREAS WITHIN THE CORRIDOR

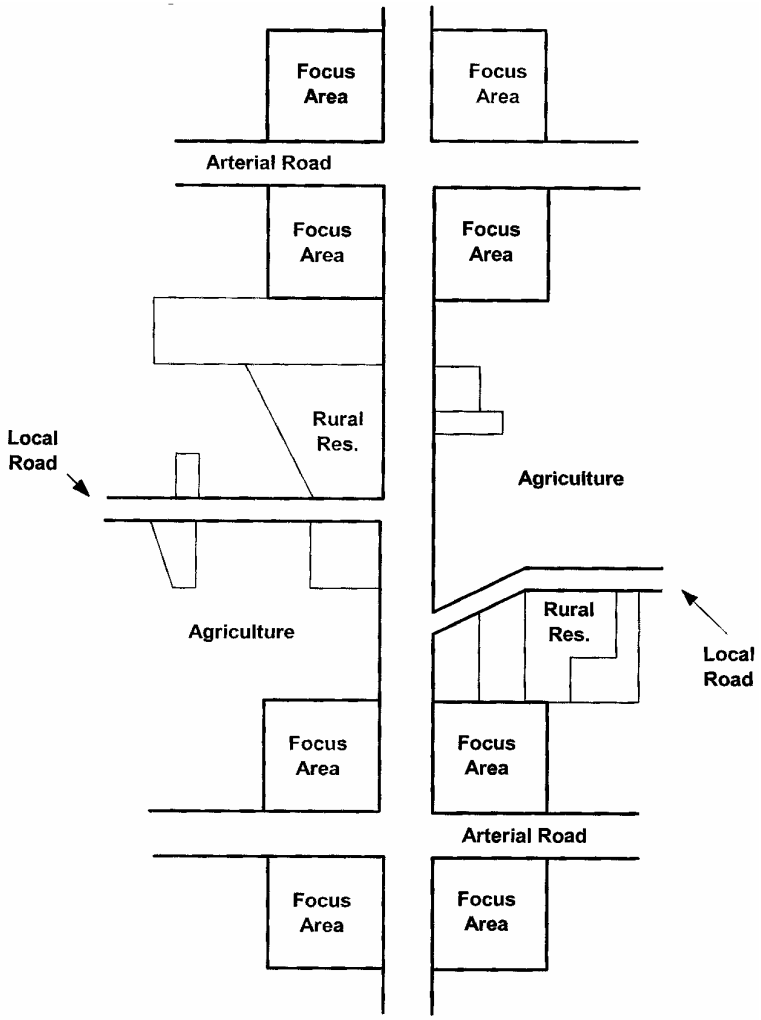
Agriculture, public uses and semi-public uses shall be permitted within the corridor outside focus areas. Institutional uses such as churches containing buildings no greater than 10,000 square feet shall be permitted within the corridor outside focus areas.

No land in the regulated corridor outside a focus area shall be developed for a commercial or industrial use, except as follows:

(a) Land that is already located within a commercial or industrial land use intensity [or zoning] district may be developed, used and expanded in accordance with the regulations for the underlying land use intensity [or zoning] district in which it is located.

(b) Land that is developed for a commercial or industrial use may continue to be used but shall only be expanded in accordance with the regulations for the underlying land use intensity [or zoning] district in which it is located.

(c) Land may be developed for commercial, industrial, larger-scale institutional use or other use upon application and approval of a conditional use permit in accordance with the provisions of Section 7-1 of this Code.



CORRIDOR DEVELOPMENT CONCEPT

Figure 4-9-5.1

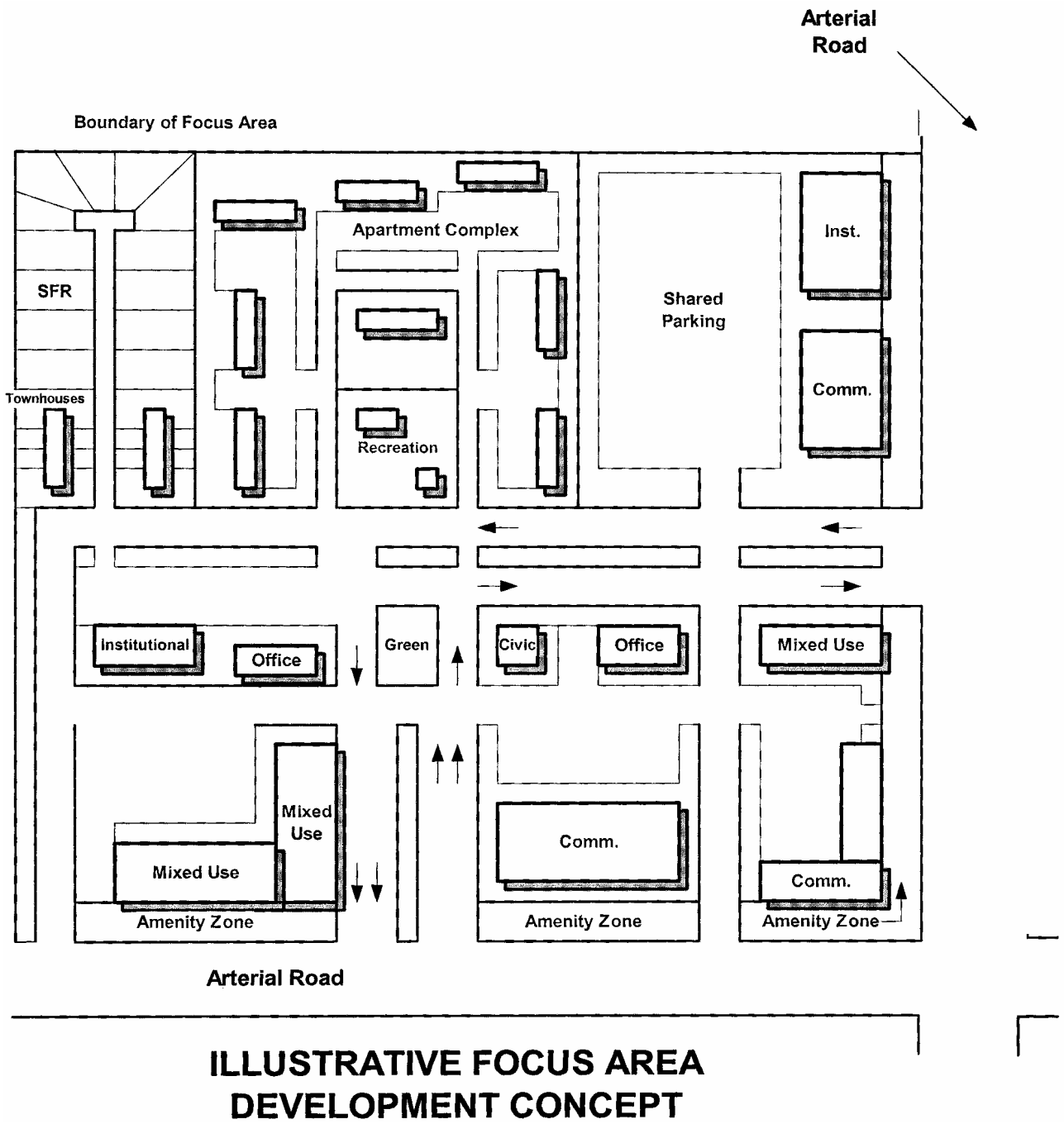

Arterial Road
Boundary of Focus Area
SFR
Townhouses
Apartment Complex
Recreation
Shared Parking
Inst.
Comm.
Institutional
Office
Green
Civic
Office
Mixed Use
Mixed Use
Mixed Use
Amenity Zone
Comm.
Amenity Zone
Comm.
Amenity Zone
Arterial Road
ILLUSTRATIVE FOCUS AREA DEVELOPMENT CONCEPT

Figure 4-9-5.2

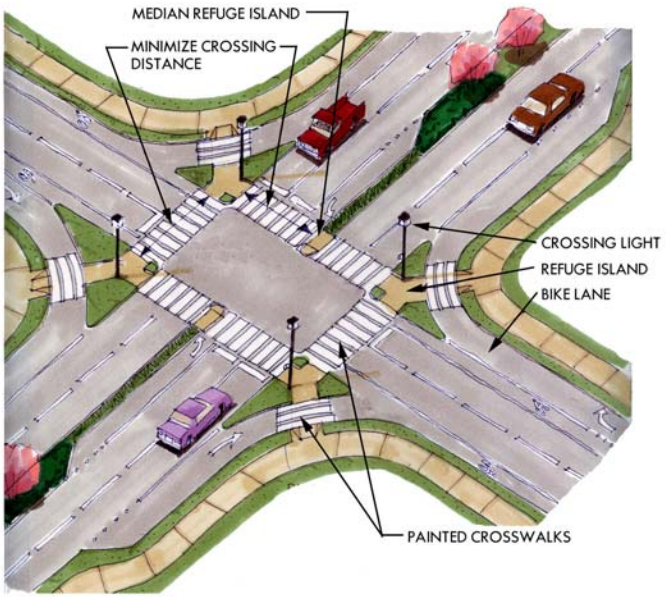
§ 4-9-6 ACCESS

§ 4-9-6.1 Medians. Roads and entrances to developments connecting with the arterial road in the corridor and serving development in the focus area shall include center medians for a distance of at least 200 feet from the right-of-way. Medians are desired because they improve traffic safety and can be planted to enhance the overall appearance of the focus area, as well as provide refuge for pedestrians.

§ 4-9-6.2 Vehicular Access to Site. Within the focus area, subdivision of lots along an arterial road shall not be allowed if designed so that each lot has its own individual access to the major road and no other access. Each pod of development, or if subdivided, each lot including outparcels, must be connected with on-site access to a frontage road or interconnecting driveway, rather than directly on the arterial road.

§ 4-9-6.3 Pedestrian Access. Pedestrian access must be provided to individual developments and each establishment within the development. Pedestrians should not have to walk in and along parking aisles, driveways or roadways to get from any one building to another; rather, pedestrian ways shall be well defined, take as direct a path as possible, and they should be separated where practical from automobile access ways.

Sidewalks on individual properties must connect to the sidewalk system within the arterial road right-of-way and to adjacent parcels where compatible as determined by the Land Use Officer. Where medians are required, pedestrian access shall be provided across the median as approved by the Land Use Officer. Pedestrian improvements at the intersection of the arterial roads should be made to ensure that pedestrians can travel safely from one focus area to another.



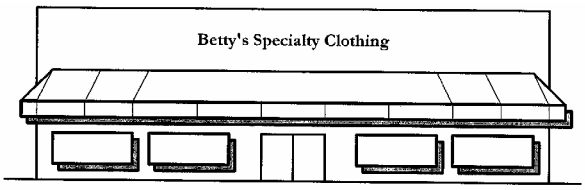
Source: Talka & Connor, and Hughes Good O'Leary and Ryan. 2000. Design Guidelines for the Garrison Hill District, State Route 120/Marietta Highway. Roswell, GA: Department of Community Development.

Figure 4-9-9.3

§ 4-9-6.4 Interparcel Access. The roadway pattern within development in focus areas should require short trips between developments in the activity center without use of the major road within the corridor. Within a focus area, development shall interconnect with the road network of any adjacent development or site within the focus area, unless the Land Use Officer determines such connection would be incompatible.

§ 4-9-7 BUILDING PLACEMENT, HEIGHT AND INTENSITY

§ 4-9-7.1 Placement Generally. Buildings should be arranged so that they help frame and define the fronting arterial roads or driveways (i.e., the arterial road in the corridor, an intersecting arterial road, or internal streets or driveways of the development), thus giving deliberate form to streets and sidewalk areas. At least fifty percent (50%) of the front building façade of a principal building in a focus area must orient towards (face) the fronting arterial road or internal street or driveway, and the buildings shall be located within 20 feet to those fronting street rights-of-way, so as to effectively frame and define the streetscape and provide convenient pedestrian accesses along those streets to the buildings.

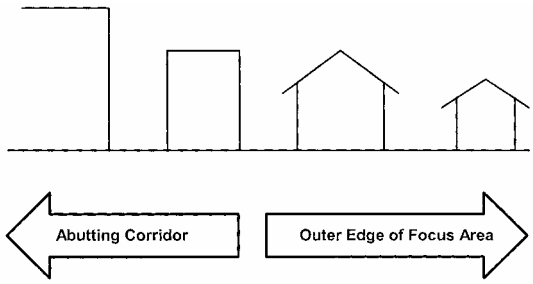


Encouraged:
Shops Facing Street
With Awnings and Storefront Windows
Help Define Streetscape

Figure 4-9-7.1

§ 4-9-7.2 Placement in Relation to Other Quadrants in the Focus Area. Whenever a focus area extends to one or more other quadrants of a major road intersection, the buildings on the different quadrants of the street should not be separated from each other by parking lots. The line and massing of the buildings and structures on each quadrant should be arranged such that they are as close to each other as possible and served with sidewalks, so as to encourage pedestrian movement between the quadrants on opposite sides of the street(s).

§ 4-9-7.3 Building Height. Building heights should be greatest in that part of the focus area closest to the arterial road intersection and they should transition to lower heights as they are located further outward toward the outer edge of the focus area. Buildings at the outer edge of the focus area should be comparable in height with the surrounding neighborhood beyond the focus area.



Decrease Height and Mass
in the Focus Area

Figure 4-9-7.3

§ 4-9-7.4 Building Mass, Intensity and Density. Mass of buildings and building intensity (floor area ratios) should be highest when located closest to the arterial road intersection, transitioning to progressively lower intensities moving outwards to the outer edge of the focus area. Buildings at the outer edge of the focus area should be

comparable in mass and intensity with the surrounding neighborhood or existing land uses adjacent and beyond the focus area.

§ 4-9-7.5 Floor-Area Ratio. Development in the focus area shall not exceed a floor-area ratio of 0.6. Separate measurements shall be made for each quadrant. Detached, single-family dwellings are exempt from inclusion in the calculation of maximum permitted floor area in the focus area. The floor-area ratio permitted for development outside a focus area shall not exceed 0.25.

§ 4-9-8 PARKING LOCATION AND DESIGN

§ 4-9-8.1 Location of Parking Areas. Buildings should be located at the corner of sites closest to the road intersection, so that the line of sight to parking areas is blocked by buildings and so that the travel path from public sidewalks is shortened. Parking must be located in a way that it is not visually dominant. Parking should be located to the side or rear of buildings. Parking between buildings and an arterial road is discouraged, but in no case shall more than 25 percent of the parking provided on any given site be located between a principal building and an arterial road in the focus area.

§ 4-9-8.2 Screening of Parking Areas. When parking areas are provided in a front yard (in between an arterial road right-of-way and a principal building), they shall be visually screened by a minimum two and one half-foot high evergreen hedge planted between the right-of-way and parking areas, or an earthen berm within the amenity zone to obscure visibility of the parking lot from view from the corridor.

§ 4-9-8.3 Shared Parking. Shared parking shall be provided when multiple uses are located close to one another and their parking demands differ by time of day or day of the week (e.g., church and an indoor theater).

§ 4-9-10 AMENITY ZONE

§ 4-9-10.1 Established. The area between the right-of-way of an arterial road and any principal building, or forty feet (40') from the right-of-way, whichever is less, is hereby established as a focus area. An amenity zone, as defined, shall be established between the corridor arterial road or intersecting arterial road right-of-way and the development, for at least seventy-five percent (75%) of the property frontage of each property within the focus area. The amenity zone shall be devoted to interest-creating

features, such as monuments, pedestrian plazas, landscaping, public art, or other approved pedestrian-friendly features. Signs that are scaled to the pedestrian are permitted within amenity zones.

§ 4-9-10.2 Uses and Improvements. Pedestrian-oriented outdoor spaces are especially encouraged within amenity zones. Gathering spaces may include formal parks, town greens, small parks/plazas and other places for pedestrian comfort and public interaction. These spaces should be integrated purposefully into the overall design of the activity center and not merely be residual areas left over after buildings and parking lots are sited. These spaces should also be placed next to the areas that generate the users, such as street corners, shops and restaurants, stores, day care centers and dwellings.

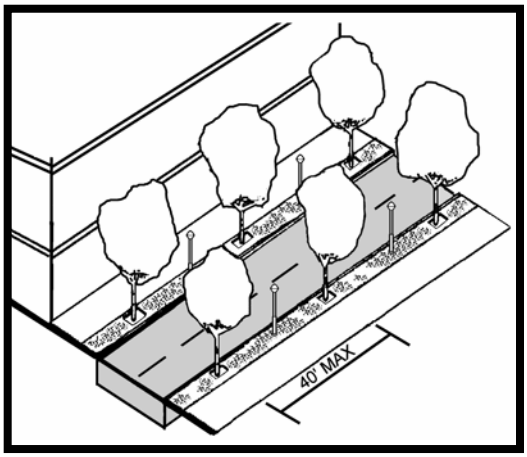
Within amenity zones, street furniture (e.g., benches, trash receptacles), pedestrian-scale lighting (e.g., bollards) and sensitively arranged uses such as outdoor patios should be provided to encourage human interaction and street life. Street furniture, including benches and trash receptacles (waste bins) should be provided in amenity zones at intervals of one bench and one trash receptacle for every four hundred (400) feet of frontage. Advertising shall not permitted on street furniture.

§ 4-9-11 LANDSCAPING

§ 4-9-11.1 Amenity Zones. Amenity zones shall be landscaped according to a landscape and streetscape plan approved by the Land Use Officer. The amount of landscaping required will depend on the types and amounts of other amenities provided.

§ 4-9-11.2 Medians. Where medians are required, they shall be landscaped with low-lying (not to exceed two feet high) ground cover, flowers and/or small shrubs that will not interfere with sight visibility of motorists or pedestrians.

§ 4-9-11.3 Street trees. Street trees provide a good contrast to buildings and pavement and help soften the built environment. They enliven streetscapes by blending natural features with built features. Street trees also help buffer pedestrians from vehicles and offer summer shade. Street trees shall be no more than forty-foot (40') intervals along the entire property fronting the corridor. Street trees shall be placed within the right-of-way of the arterial corridor, if permitted by the County [City] Engineer given available right-of-way and visibility considerations or within the first ten feet (10') of the amenity zone.



Courtesy of: City of Atlanta, "Quality of Life Development Codes" 2003
Figure 4-9-11.3

§ 4-9-11.4 Perimeter Buffers. When a single-family residence abuts the boundary of a focus area, a vegetated buffer of at least twenty-five (25) feet in width shall be planted along the entire property line inside the focus area boundary, between the non-single family development and a single-family residence. Perimeter buffers may be penetrated by utilities and sidewalks and, if determined appropriate by the Land Use Officer, vehicular access.

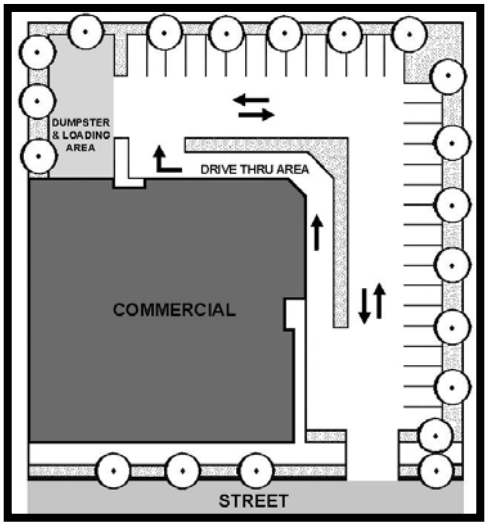
§ 4-9-12 PROVISIONS FOR SPECIFIC USES

§ 4-9-12.1 Big Box Retail Development. "Big box" development (individual retail establishments with 60,000 square feet or more floor area in one building) must be completely screened with rows of dense vegetation (i.e., buffers of trees) or with topographic changes (i.e., berms) from all arterial roads.

§ 4-9-12.2 Communication Towers. Communication towers shall be set back a minimum of twice the tower's height from the right-of-way of an arterial road in the corridor.

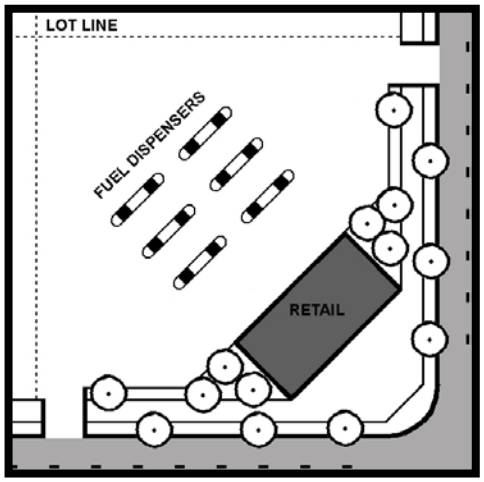
§ 4-9-12.3 Fences and Walls. Where provided and where visible from the arterial road, fences and walls should be composed of natural materials (i.e., wood and stone), and landscaping should be used to minimize or soften the appearance from the public right-of-way. Chain link fencing shall not be permitted except in side or rear yards and shall be screened with vegetation to a height of six (6) feet.

§ 4-9-12.4 Drive-Through Facilities. Drive-through facilities shall be located to the rear or side of the building and shall not abut an amenity zone.



Courtesy of: City of Atlanta, "Quality of Life Development Codes" 2003
Figure 4-9-12.4

§ 4-9-12.5 Gas Station Pump Islands. Gas station pump islands, if permitted, must be located behind the principal building and substantially obstructed (except for as may be viewed through approved driveway entrances and exits) from view from the corridor.



Courtesy of: City of Atlanta, "Quality of Life Development Codes" 2003
Figure 4-9-12.5

§ 4-9-12.6 Outside Display and Storage and Service Areas. If permitted, the outside storage or display of vehicles, equipment or merchandise to be rented, leased or sold, and service areas like loading docks, shall be substantially obstructed from view from the corridor. Screening of outside display and storage and service areas shall be accomplished by a natural vegetative buffer, a building, an earthen berm, a 100 percent opaque, solid wooden fence or wall or a combination of these screening methods. The use of low-lying landscaping that does not screen the display areas from view from the public right-of-way shall not be considered compliant with this requirement.

§ 4-9-12.7 Stormwater Detention Facilities. Design of stormwater detention facilities as amenities shall be required when the facility is located within an amenity zone. For example, spray fountains or water falls are attractive alternatives for moving water. Open storm drainage and detention areas visible from the corridor should be incorporated into the design of the development as an attractive amenity. Wet-bottom basins are encouraged. Dry basins, where used, shall be sloped adequately to ensure proper surface drainage, designed so slopes and bottoms can be easily maintained and extensively landscaped.

§ 4-9-13 ARCHITECTURE

§ 4-9-13.1 Building Walls. Lengthy, featureless façades and building walls lining the corridor must be avoided. Large, flat, blank expanses on a façade are not acceptable and shall not be permitted. Building walls shall not extend more than 200 linear feet parallel to the arterial road unless the front façade of the building changes at the building line (i.e., front setback in relation to the arterial road) by at least five feet (5') or the front building façade is designed in a way that breaks up the building face into discrete architectural elements. There should be some differentiation between the building base and the top, which can be accomplished with building articulation or details at the roof line. Building articulation can be accomplished through the following:

(a) Façade modulation: stepping back or extending forward a portion of the façade.

(b) Providing bay windows or repeating window patterns at regular intervals.

(c) Providing a porch, patio, deck, covered entry to portions of the façade at the ground level or in the case of two or more story buildings, balconies.

(d) Changing the roofline by alternating dormers, or using stepped roofs, gables or other roof elements.

(e) Changing materials with the change in building plane.

Figure 4-9-13.1

Multiple buildings on the same site should be designed to create a cohesive visual relationship among the buildings. All exterior facades of buildings should employ architectural elements (color, material, design, etc.) which are common to one another.

§ 4-9-13.2 Awnings. Awnings on commercial structures are encouraged to provide additional unity to buildings as well as provide visual interest. Fixed fabric awnings should extend the entire length of the building or leased portion of the building. Signage may be incorporated into awnings, subject to compliance with applicable sign regulations. Colors should be compatible with the building materials and primary colors are appropriate if their color intensity is muted. Solid awnings or stripes are appropriate.

§ 4-9-13.3 Building Materials. Corrugated and/or sheet metal siding, prefabricated steel panels, smooth-face, split or ground face concrete block, tilt-up concrete panels and synthetic stucco shall not be permitted on a building unless it is screened from view from arterial roads. All non-residential building exteriors visible from arterial roads shall be constructed of stone, wood or other natural materials.

§ 4-9-13.4 Windows. Within a focus area, windows shall be provided on the façade on all buildings within 100 feet of the corridor and facing the corridor. A minimum of twenty-five (25) percent of the ground floor façade area shall be composed of windows, which shall be non-reflective and transparent.

§ 4-9-13.5 Rooftop Mechanical Equipment. Any mechanical equipment located on the roof of a building shall be screened from view from the right-of-way of the corridor by the building roof, a parapet wall or by other screen approved by the Land Use Officer. Such equipment should be as inconspicuous as possible from other viewpoints, as well. In the case of flat roofs, cooling and air handling equipment may be located within a roof depression to comply with this requirement. Where such screening is not feasible in the

Land Use Officer's opinion, equipment shall be painted or screened in a manner as to minimize its visibility.

§ 4-9-13.6 Gutters and Downspouts. Sheet metal gutters and downspouts shall be of a color or painted to a color that is compatible with the other colors on the building façade.

§ 4-9-14 SIGNAGE

§ 4-9-14.1 Off-Premise Signs. Billboards shall not be permitted in the corridor. To help advertise and direct the motoring public to businesses and activities in focus areas which do not directly access the arterial road or are screened from view, development applicants may provide and seek approval by the Land Use Officer of a program for off-premise "logo" directional signs, each no more than sixty-four (64) square feet in area, and which shall be spaced no more frequently than every 1,320 feet along an arterial road. Subject to the Land Use Officer's approval (and other jurisdictions if applicable), directional logo signs may be placed at corners of intersections or along appropriate portions of the corridor, within or immediately outside public right-of-ways, to guide customers and patrons from the arterial road and along public frontage roads to their destinations.

§ 4-9-14.2 On-Premise Signs. Freestanding signs should be monument style. Signage should be unobtrusive and compatible in scale, size, material and character with the building to which it is directed. All signs shall meet the provisions of the county's [city's] sign regulations. Signs in amenity zones should be all-wooden construction and should not be internally illuminated.

§ 4-9-14.3 Sign Programs. All off-premise and on-premise signs within activity centers shall only be approved as a part of a sign program that shows how signs will complement the style, color and materials of buildings.

§ 4-9-15 LAND USE OFFICER'S RESPONSIBILITIES

The Land Use Officer shall evaluate all proposed development activities within the corridor overlay district. No development permit, land use permit or building permit shall

be issued unless the development, land use, building or structure is in compliance with this Resolution [Ordinance].

§ 4-9-16 VARIANCES

If an applicant asserts that the application of this Resolution [Ordinance] would deny the reasonable use of property, the applicant may apply for a variance. A variance is intended to provide a remedy to address those cases in which the application of this Resolution [Ordinance] unreasonably restricts all economic use of a parcel of land and the restriction cannot be remedied by other authorized techniques or conditions. A variance to the provisions of this Resolution [Ordinance] may be filed, considered and granted in accordance with Section 7-2 of this code.

Commentary: Local governments adopting this provision must adopt § 7-2, Appeals and Variances, of the Model Land Use Management Code. Another alternative is to assign the variance review functions to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

§ 2-7-21 APPEALS

A developer or other party aggrieved by a decision of the Land Use Officer in the administration, interpretation or enforcement of this Resolution [Ordinance] may appeal said decision as provided in Section § 7-3 of this Code.

Commentary: Local governments adopting this appeal provision must provide the procedures or refer to an appeals procedure. Section 7-3 of the Model Land Use Management Code provides for appeal procedures and this ordinance makes reference to that Code section. Local governments must also adopt § 7-3 in order to make this appeal provision work. Another alternative is to assign the variance review functions to a hearing examiner (see § 7-4 of the Model Land Use Management Code).

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§5-1 DOWNTOWN SPECIFIC PLANS

CONTENTS

§5-1 DOWNTOWN SPECIFIC PLANS

Description: Specific plans describe in more detail the type of development planned for a particular area than found in the comprehensive plan, combining the planning objectives for an area and the implementation techniques to achieve them. Specific area plans typically focus on some unique feature of the geographic area that they encompass, and can relate to local conditions that cannot be fully addressed by conventional zoning. Although particularly suited to application for large, undeveloped land areas, the specific plan may be used to guide the buildout of partially developed areas with potential for infill and redevelopment. The latter application is relevant to Georgia's typical small rural downtown, where the focus is to promote and maintain the character of the community's small downtown.

Commentary: Specific plans have been implemented by local governments in the State of California, where they are recognized for their value as an implementation tool. Under California law, a specific plan must contain text and diagrams that specify the land uses within the area covered by the plan, the infrastructure needed to serve the proposed land uses, development standards and criteria, and capital improvements and financing measures necessary to implement the plan. Under California law, a specific plan is adopted either by resolution or Resolution [Ordinance] following a public hearing process by the planning commission and governing body. It then typically serves to supplement, and in some cases, supercede the conventional zoning regulations for the property(ies).
In addition to its widespread use in the State of California, the specific plan is being utilized as a growth management tool by local governments in other states, such as Oregon.

The California specific plan model may not be applicable in its entirety to the development conditions in rural Georgia. However, this module presents a variation of the specific plan approach that could be appropriate in small towns in rural Georgia. This module is intended to provide small rural towns in Georgia with an alternative to conventional zoning that would apply to only one part of its jurisdiction—its downtown. Under the assumption that a small city's downtown may be one of the more important areas in which to ensure compatible development, a specific plan for the downtown could be turned into more than a plan itself. It could be a regulatory tool adopted by ordinance that provides detailed guidance on future development in the area.

In many of Georgia's small and/or rural communities, the downtown core area encompasses as few as four or five blocks, often laid out around a central square, park or other focal point such as a county courthouse, a church, or a museum. Linear "main street" configurations comprised of up to five blocks in length and one or two blocks in width are also prevalent. The downtown specific plan can be used as a regulatory tool to protect and enhance such areas, in the absence of (or in addition to) conventional zoning.

Caution in Using This Tool: This module is written so that it can be applied generally to small downtown core areas in Georgia's rural cities. However, the whole idea behind a specific plan is that a "plan" is prepared; one that is based on a study of site-specific conditions and considers the uniqueness of the special area. While many characteristics of small downtowns in Georgia are similar, it is impossible to generalize about them in a way that would be meaningful in the context of land use regulation. For these reasons, communities desiring to use this tool must investigate unique conditions and prepare a specific plan for the area. Such a plan informs the land use regulations needed, but it also provides a more solid legal foundation on which to regulate development. After the plan itself is adopted, the community can write an ordinance (based on the language in this module) that "puts teeth" into the recommendations, policies, and objectives of the downtown plan.

Commentary on Partial Zoning Schemes: This tool amounts to a less-than-comprehensive zoning ordinance to regulate specifically designated areas. The purpose of this tool is to establish zoning and various design regulations in a specific geographic area of a city because land use controls are needed there but are not necessary or politically acceptable in other portions of the jurisdiction. By zoning, it is meant that the regulations contain a list of permitted (or prohibited) land uses within only a certain part of the local jurisdiction. Hence, a specific plan such as that presented in this module is an example of what could be called "partial zoning schemes."

Applications of Partial Zoning Schemes. There are no known examples of partial zoning schemes applied in Georgia. However, there are examples in western states where zoning has been adopted for an urban area or other portion of a jurisdiction that is under significant development pressure, yet the remaining balance of the county is unzoned. For example, Cowlitz County, Washington, has a zoning ordinance that applies to an urbanized area surrounding the cities of Longview and Kelso, but the vast majority of the county (which is

mostly private forestland) remains unzoned. Similarly, Gallatin County, Montana, has developed separate zoning ordinances for portions of the county experiencing resort development, while the remainder of the county is unzoned.

Commentary on Legality of Partial Zoning Schemes. The concept of zoning part of a jurisdiction while leaving the remainder unzoned may violate past precedents and legal principles that "zoning must be done in accordance with a comprehensive plan." However, the phrase "in accordance with a comprehensive plan," which has its origins in the Standard State Zoning Enabling Act, has never been precisely defined and has always been subject to debate among planners and lawyers. One might question the imposition of zoning regulations on less than an entire jurisdiction. However, if sufficient justification can be shown for imposing zoning regulations on part of the area of the county or city rather than the whole, jurisdiction would likely be upheld, even with an equal protection challenge. But, there needs to be specific conditions relating to the area zoned, such as excessive growth and development, which would justify having zoning in less than the entire jurisdiction. Local government can adopt a zoning ordinance that establishes districts only in part of its jurisdiction, provided it satisfies equal protection standards. The fact that such an ordinance may impose greater burdens on only some of the population rather than the other is not the critical element. There must be a rational basis between zoning only part of the jurisdiction and not zoning other parts (Jenkins 2001).

§5-1-1 PURPOSE AND INTENT

The purpose of this Resolution [Ordinance] is to foster and strengthen economic vitality in the local jurisdiction's downtown core area while respecting and enhancing the special character of the existing development in the downtown core area. The downtown core area is a compact assembly of storefront buildings, short walkable blocks, mixed uses, pedestrian amenities, and consolidated on- and off-street parking. The community's downtown core character is especially vulnerable to intrusion from incompatible uses and physical development practices. The city's downtown is so important and significant to the city, that it justifies a special set of regulations designed to protect and enhance its character in light of new development. The potential to impact existing development is much less in other areas of the community than in the downtown core area, and hence the regulations outside the downtown core area do not merit the same protection. The purpose of this Resolution [Ordinance] is to establish requirements for building and site design for new developments and for the significant modification of existing

developments within the designated downtown core area. This Resolution [Ordinance] is intended to protect the existing character of the downtown and encourage orderly development in accordance with the comprehensive plan for the city and with a study and specific plan for the downtown core area. The following principles serve as the foundation for the Downtown Specific Plan:

(a) Efficient use of land and services.
(b) A mix of land uses which strengthen opportunities for economic vitality and support pedestrian activity as well as housing opportunities.
(c) Provide for community gathering places and pedestrian/visitor amenities.
(d) Establish a distinct storefront character associated with the downtown core area.
(e) Provide transitions to adjacent neighborhoods and commercial areas.
(f) Maintain and enhance the area's character through design guidelines.

The downtown specific plan, upon its adoption per this Resolution [Ordinance], is enforceable and implemented as a set of land use regulations. Development proposals that are consistent with an adopted specific plan are not subject to further discretionary review by the local government. In this context, all land use applications for property within the downtown specific plan area are required by this Resolution [Ordinance] to comply with the provisions of the downtown specific plan.

§5-1-2 DEFINITIONS

For purposes of this Resolution [Ordinance], the following definitions shall apply:

Alley: A secondary means of access to abutting property located at the rear or side of the property.

Bed and breakfast: An establishment primarily engaged in providing temporary lodging for the general public with access provided through a common entrance to guest rooms having no cooking facilities. Meals may or may not be provided.

Grade, average: The elevation determined by averaging the highest and lowest elevations of a parcel, building site or other defined area of land.

Gross floor area: The total square footage of all floors of a building, including the exterior unfinished wall structure, but excluding courtyards and other outdoor areas.

Property line: A lot line or parcel boundary.

Setback: The distance that a principal building or other structure or facility must be located from away from a lot line or property line.
Use: The purpose for which a building, structure, or land is occupied, arranged, designed or intended, or for which building, structure, or land is or may be occupied or maintained.

§5-1-3 ADOPTION OF DOWNTOWN SPECIFIC PLAN BY REFERENCE

The city hereby finds that the Specific Plan for _____, is consistent with the city's Comprehensive Plan and is hereby adopted and made a part of this Resolution [Ordinance] as if fully set forth herein. The city finds that prior to adoption of the Specific Downtown Plan, the following actions have been taken to ensure procedural due process:

(a) A detailed map has been prepared showing the boundaries for the Downtown Plan Specific Area in relation to property lines.

Commentary: Some specific plans also establish boundaries for a transitional area adjacent to the downtown, which can be important in maintaining the character of the specific area. Communities may consider also establishing a downtown transitional subarea and adopt regulations that apply to that subarea.

(b) The city's comprehensive plan was amended to include the idea of establishing a downtown specific plan, and the comprehensive planning process afforded the opportunity for all citizens and business owners of the city to participate in a vision for the city and the downtown core area. Said comprehensive plan amendment also took into account site-specific conditions and needs in the subject area.

(c) The city prepared a specific plan for the subject area that includes studies and data on existing conditions and needs with regard to preserving the existing character of the area.

Commentary: As noted above, the specific plan should actually be a "plan" as well as an implementing ordinance. To strengthen the status of the specific plan, it should be explicitly referred to in the Comprehensive Plan, if not adopted as a part of the comprehensive plan. The two paragraphs above are intended to bolster the legal status of this Resolution [Ordinance].

(d) At least 15 days prior to public hearing and action, the Mayor and City Council notified the public of the date, time, place and nature of a public hearing by publication in a newspaper of general circulation in the territory of the local government.

Commentary: Because the adoption of regulations applicable to a specific area, as defined by boundaries on a map, may be considered a zoning district, it is strongly advised that ordinances implementing specific plans be adopted only after full compliance with the Zoning Procedures Law (O.C.G.A. 36-66).

(e) The Land Use Officer notified all owners of parcels of land within the boundary of the Downtown Specific Plan and all owners of parcels of land within 300 feet of the project area boundary, of the date, time, place and nature of the public hearing by mail at least 15 days before the public hearing. Notices shall be sent to the names of the property owners identified by the tax records of the local government. Notice shall be by first class mail, and the act of mailing said notice to property owners listed identified by tax records of the city shall be deemed sufficient to comply with this requirement.

Commentary: This provision is not a requirement of the state zoning procedures law. However, given the site-specific nature of the regulations, it is advisable to follow a practice many local governments exercise, that is, notify individual property owners of the proposed regulations. Legal Counsel recommends excluding this provision, because it can easily result in procedural defects if not followed exactly and, therefore, can undermine a land use or zoning decision.

(f) The Mayor and City Council held the public hearing at the date, time, and place advertised, and afforded all interested individuals the opportunity to be heard concerning the proposed downtown specific plan and implementing regulations.

§5-1-4 PLAN AS REGULATION

The downtown specific plan, as adopted by reference, contains recommended policies and development guidelines that are hereby made mandatory by adopting them in this Resolution [Ordinance]. The downtown specific plan, unless otherwise specifically provided for in this Resolution [Ordinance], shall be considered as carrying the weight of law and shall be enforced and abided by as a municipal land use regulation.

§5-1-5 USE LIMITATIONS

Within the _____ downtown specific plan boundary, only those uses that help create a unique, dynamic pedestrian-oriented center are allowed. Such uses generally include specialty retail, services, civic uses, restaurants and dining establishments, professional offices, passive open spaces, and residences. (See Figure 5-1-5.0).

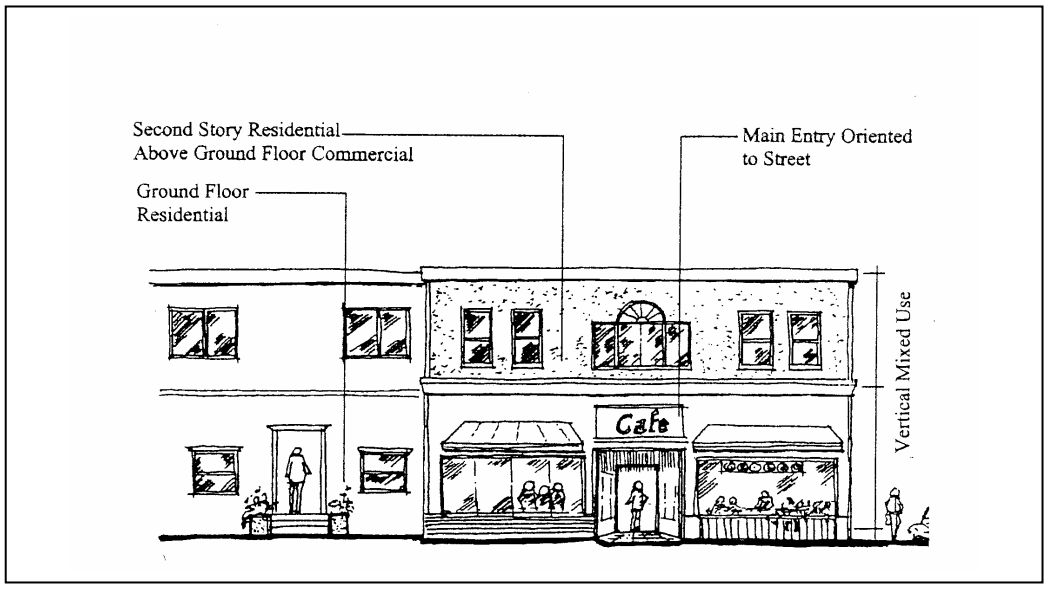
§5-1-5.1 Permitted Uses. The land uses listed in Table 5-1-5.1.1 are permitted in the Specific Downtown Plan area, subject to the provisions of this chapter. Only land uses which are specifically listed in Table 5-1-5.1.1, and those land uses which are or may be approved as "similar" to those listed in said table may be permitted. The land uses identified with a "(3)" are conditional and require conditional use permit approval prior to development or establishment, in accordance with the provisions of Section 7-1 of this Code.

§5-1-5.2. Determination of Similar Land Uses. Uses that are similar in nature to one or more permitted uses, as determined by the Land Use Officer, shall be permitted within the boundary of the downtown specific plan.

Legal Commentary: The two provisions above may withstand challenge, but the term "similar" is somewhat vague and subject to challenge.

Figure 5-1-5.0

Residential Uses Mixed With Commercial Shops



Source: Oregon Transportation and Growth Management Program 1999.

Table 5-1-5.1.1

Uses Permitted in the Specific Downtown Plan Area

RESIDENTIAL	PUBLIC/ INSTITUTIONAL	COMMERCIAL
Detached single-family residences which existed on the effective date of this Resolution [Ordinance]	Religious Institutions and Places of Worship	Entertainment facilities (theaters, clubs, movies)
Two-family dwellings (duplexes) which existed on the effective date of this Resolution [Ordinance]	Clubs, fraternities, sororities, lodges and similar uses	Medical and dental offices, clinics and associated laboratories, pharmacies, optometrists, and similar medical uses
Single-family attached (Townhouses)	Government offices and facilities, including courthouses	Offices
Dwellings within a commercial or other non-residential structure (e.g., residence occupying an upper floor of a retail store)	Libraries, museums, concert halls, auditoriums, community center, and similar uses	Personal and professional services (e.g., hair salons, day spas, barber shops, tailors, shoe repair, nail salon, tanning salon, shoe repair, tailor, watch and jewelry repair, package wrapping/ copying/ sending services, and similar uses)
Accessory dwellings which existed on the effective date of this Resolution [Ordinance]	Outdoor bandstand, amphitheater, pavilion	Children's day care
Multi-family residential (1)	Public parking lots and garages (See §5-1-10 Special Standards for Parking Areas)	Laundromats and dry cleaners (no dry cleaning plant on premises permitted)
Residential care homes and facilities	Private utilities	Hotels and lodges, but not motels or motor hotels with parking immediately adjacent to guest rooms
Family day care (Less than 6 children)	Public parks, squares, greens, and recreation facilities	Restaurants, catering, prepared food services for on-site consumption, retail bakeries, candy/ice cream shops (food production allowed in conjunction with retail)
Bed and breakfast inns (3)	Schools, public and private	Banks and financial institutions
	Visitors centers and information services	Retail trade and services(2)
		Art and craft galleries
		Commercial storage (4)
		Wholesale (5)
		Manufacturing ancillary to a storefront retail sales and services outlet (6)
		Vehicle sales fully enclosed in building (3)

Notes to Table 5-1-5.2.2:

(1) Subject to provisions limiting location and design character. Residential uses are permitted on upper stories above ground floor non-residential use, on ground floors behind storefront space, or integrated into a mixed-use structure where design is consistent with the storefront character.
(2) Except auto–oriented uses and vehicle sales and service.
(3) Subject to use permit provisions as provided in Section 7.1.
(4) Enclosed in building and on upper stories only. Must be ancillary to storefront or ground floor use.
(5) Restricted to buildings of 20,000 to 60,000 gross floor area.
(6) Uses such as candle making, blown glass, small "country" crafts, t-shirt lamination, and monogramming are permitted subject to a use permit and are restricted to spaces of less than 25 percent of gross floor area. May not be located in a storefront location, and must be located a minimum of 50 feet from a residential use.

Commentary: Many of the uses listed in the tables above are defined in Section 6.1 of this code. If the local government does not adopt Section 6.1, it may wish to import definitions from that section into this module.

§5-1-6 BUILDING SETBACKS

Commentary: In the Downtown Specific Plan area, buildings are placed close to the street to create a pedestrian-oriented environment, provide storefront character towards the street, limit traffic speeds, and encourage walking. The setback requirements are flexible to encourage public spaces between sidewalks and building entrances to allow for pedestrian spaces, such as, but not limited to, outdoor dining areas, street furniture, extra wide sidewalks, and plazas. Building setbacks are measured from the build-to line to the respective property line. Setbacks for porches are measured from the edge of the deck or porch to the property line. Setback requirements apply to primary structures as well as accessory structures.

§5-1-6.1 Minimum Front Setbacks. There shall be no minimum front setback. The front building façade shall correspond to the build-to line of adjacent structures, except to accommodate usable public space with pedestrian amenities.

§5-1-6.2 Maximum Front Setbacks. The maximum allowable front yard setback shall be 10 feet. Exceptions to this requirement may be approved for structures that provide pedestrian amenities, placed between the building façade and street sidewalk.

§5-1-6.3 Minimum Rear Yard Setbacks. There shall be no minimum rear yard setback for structures on lots with street access. For structures on lots accessed by an alley, the minimum setback shall be six feet (distance from building to rear property line or alley easement) in order to provide space for parallel parking.

§5-1-6.4 Through Lots. For buildings on through lots, the front setbacks established in §5-1-6.1 and §5-1-6.2 shall apply to both property frontages.

§5-1-6.5 Side Yard Setbacks. There shall be no minimum side yard setback required, except that buildings shall meet applicable fire and building codes for attached structures, firewalls and related requirements, and allow for a minimum 15-foot vision clearance area when located on a corner lot.

Commentary: For definitions of "through" lot and "corner" lot, see Section 2.2 (subdivision regulations) of this model land use management code.

§5-1-6.6 Setback Exceptions. Eaves, chimneys, bay windows, overhangs, cornices, awnings, canopies, porches, decks, projecting signs, and similar architectural features may encroach into setbacks by no more than six feet, subject to compliance with standards of locally applicable fire codes and building code.

§5-1-7 BUILDING HEIGHT

All buildings in the Specific Downtown Plan area shall comply with the following building height requirements, which are intended to allow for development of appropriately scaled buildings with a storefront character.

§5-1-7.1 Maximum Height. Buildings shall be equivalent to the height of the adjacent building(s). Where the height of two adjacent buildings differ, the subject structure may be equivalent to the greater height. Where applicable, the cornices (e.g., building tops or first story cornices) shall be aligned to generally match the height(s) of those on adjacent buildings.

§5-1-7.2 Height Increase for Buildings Containing Residences. The maximum building height may be increased by 15 feet where residential uses are provided above the ground floor. The building height increase applies only to those portions of the building that contain housing.

§5-1-7.3 Exceptions to Height Regulations. Not included in maximum height: chimneys; bell towers; steeples; roof equipment; flagpoles, and similar features that are not intended or used for human occupancy.

§5-1-7.4 Method of Measurement. Building height is measured as the vertical distance from the average level of the highest and lowest grade point of the portion of the lot covered by the building, measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof.

§5-1-8 BUILDING DESIGN STANDARDS

The Downtown Specific Plan design guidelines in this section are intended to provide human scale design, while affording flexibility to use a variety of building styles. These guidelines should be followed in order to ensure that the physical and operational characteristics of proposed buildings and uses are compatible within the context of the surrounding area. Infill uses in developed areas shall be compatible with the established architectural character by using a design that is complementary. New construction should reinforce existing patterns. Compatibility shall be achieved through techniques such as repetition of roof lines, the use of similar proportions in building mass, similar relationships to the street, similar door and window patterns, and the use of complementary building materials and colors.

§5-1-8.1 Building Size, Bulk, Scale, and Mass. In infill development, buildings should "learn" from their neighbors. Buildings shall either be similar in size and height, or if larger, be articulated and subdivided proportionally to the mass and scale of other structures on the same block.

§5-1-8.2 Building Orientation. If an entry is oriented to a parking lot, it diminishes activity from the street and implies that auto access takes precedence. Building presence should be reinforced through the observation of the following criteria:

(a) The minimum and maximum setback standards are met.

(b) Buildings have their primary entrance(s) oriented to the street. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances to a cluster of spaces.

(c) Corner building entrances should be designed in cases where the building is located on a corner lot. Alternatively, a building entrance may be located away from the corner when the building corner is beveled or incorporates other detailing to reduce the angular appearance of the building at the street corner.

(d) A building may have an entrance facing a side yard when a direct pedestrian walkway is provided between the building entrance and the street right-of-way.

(e) Off street parking, driveways and other vehicular access shall not be placed between a building and the street. On corner lots, buildings and their entrances shall be oriented to the street corner as feasible.

(f) At least 50 percent of the width of the lot is occupied by a building at the front setback.

§5-1-8.3 Storefront Design. All buildings shall contribute toward the storefront character and visual relationships of buildings existing in the Downtown Specific Plan area. The following architectural features should be used along the street frontage building elevations, as applicable.

(a) Buildings should have consistent spacing of similar shaped windows with trim or other decorative molding on all building stories.

(b) Large display windows should be employed on ground floor storefronts. Display windows should be framed to visually separate the ground floor from the second floor.

(c) All buildings with a flat roof should have a decorative cornice at the top of the building; or eaves, when the building is designed with a pitched roof.

(d) Cornices or changes in material can be used to differentiate the ground floor of buildings that have commercial uses from the upper floor(s) that may have offices or residential uses. Ground floor facades should utilize cornices, signs, awnings, exterior lighting, display windows and entry insets.

§5-1-8.4 Building Materials. Building materials shall be similar to the materials used on the existing buildings in the Downtown Specific Plan area. Brick and stone masonry are considered compatible with wood siding.

(a) In circumstances where similar materials are not proposed, such as a stucco building in a row of brick structures, other characteristics such as scale and proportion, form, architectural detailing, height, and color and texture shall be utilized to ensure that adequate similarity exists for the building to be considered compatible.

(b) Building materials shall not create glare. Highly reflective materials such as aluminum, unpainted metal, and reflective glass shall not be permitted.

(c) Clear glass windows shall be used for commercial storefront display windows and doors.

(d) Buildings shall be consistently detailed on all sides. Windows and doors shall be defined with detail elements such as frames, sills, and lintels, and placed to visually establish and define the building stories and establish human scale and proportion.

(e) Exposed rough or re-sawn siding and exposed, untreated concrete shall not be permitted as a finished exterior.

§5-1-8.5 Building Color. Recommended color shades shall draw from the range of color shades of structures that already exist in the Downtown Specific Plan area. No more than one accent color should be used per building.

§5-1-8.6 Pedestrian Amenities. Pedestrian amenities serve as informal gathering places for socializing, resting and enjoyment of the downtown area, and contribute to a walkable environment. Pedestrian amenities may be provided within the public right-of-way when approved by the local jurisdiction. The following amenities should be incorporated into the building design whenever feasible:

(a) A plaza, courtyard, or extra-wide sidewalk next to the building entrance.

(b) Sitting space (i.e. dining area, benches, or ledges) between the building entrance and the sidewalk. Recommended dimensions are a minimum of 16 inches in height and 30 inches in width.

(c) A building canopy, awning, or similar weather protection, with a minimum four foot projection over the sidewalk or other pedestrian space.

(d) Public art which incorporates seating (e.g., fountain, raised planter, sculpture).

§5-1-9 SPECIAL STANDARDS FOR RESIDENTIAL USES

§5-1-9.1 Residential Uses Generally. Higher density residential uses, such as multi-family buildings and attached single-family units are permitted to encourage housing near employment, shopping and services. All residential uses in the Downtown Specific Plan area are intended to require mixed-use development, conserve the community's supply of commercial land for retail and service use, provide designs which are compatible with a storefront character, avoid or minimize impacts associated with traffic and parking, and ensure proper management and maintenance of common areas. Pre-existing residential uses within the Specific Downtown area boundaries are exempt from these conditions.

§5-1-9.2 Mixed-Use Development Required. Residential uses shall be permitted only when part of a mixed-use development (residential as a component of a commercial, office or public/institutional use). Both "vertical" mixed-use (housing above the ground floor) and "horizontal" mixed-use (housing on the ground floor) developments are allowed.

§5-1-9.3 Limitation on Street-Level Housing. No more than 50 percent of a single street frontage at ground level may be occupied by residential uses.

§5-1-9.4. Allowable Density. There shall be no maximum residential density standard.

Commentary: Depending on the height of buildings in the downtown, and the percent of the lot that is covered, densities permitted in downtowns according to these regulations could differ substantially. A maximum density could be established at the discretion of the local government.

§5-1-10 SPECIAL STANDARDS FOR PARKING AREAS

§5-1-10.1 Parking, Garages and Driveways. All off-street vehicle parking, including surface lots and garages, shall be oriented to alleys, placed underground, or located in parking areas behind or to the side of the building.

§5-1-10.2 Relationship of Buildings to Streets and Parking. Every dwelling unit with a front façade facing the street shall to the maximum extent possible have its primary entrance

face the street. Every building containing four or more dwelling units shall have at least one building entry or doorway facing any adjacent street that has on-street parking.

§5-1-11 SPECIAL STANDARDS FOR OTHER USES

§5-1-11.1 Light Manufacturing. Light manufacturing uses are limited in the Downtown Specific Plan area. Light manufacturing means production or manufacturing of small-scale goods, such as crafts, electronic equipment, candy products, printing and binderies, custom furniture, and similar goods. All such light manufacturing uses shall comply with the following:

(a) Light manufacturing is only allowed when done in conjunction with a permitted retail or service use that is in the storefront location.

(b) Floor area devoted to light manufacturing is limited to 50 percent of the gross floor area of any individual establishment.

(c) The light manufacturing operations shall be fully enclosed within a building.

§5-1-11.2 Accessory Uses. Outdoor displays, sales, service, and minor entertainment are permitted accessory uses provided that they meet the following:

(a) Merchandise displayed or sold and services rendered are permitted uses.

(b) Minor entertainment is provided by groups of five or fewer performers without electronic amplification; performances have a duration period of no more than one hour in any one location within a 50-foot radius, and the hours of minor entertainment fall between the hours of 9:00 AM to 9:00 PM.

(c) All such outdoor displays, sales, service or minor entertainment takes place on private property with the written consent of the owner or agent of said property, or on public property with consent from the city.

(e) No display, sales, service or minor entertainment blocks the required pedestrian walkways. A clear area with a minimum width of four feet shall be left between the street and the building entry or exit.

(f) All booths, stalls, carts, or other equipment for outdoor display, sales, service or minor entertainment at the close of business each day shall be removed or immobilized and secured so as to prevent it from becoming a public safety hazard, nuisance or security risk.

§5-1-11.3 Trash and Loading Areas. In order to preserve the pedestrian orientation of the downtown area, all servicing, loading, and solid waste collection shall take place off-street away from pedestrian walkways, generally in bays provided in the alleys or in screened, internal, rear spaces if alleys are not available.

§5-1-12 SIGNS

Commentary. It is likely that the existing signage in the Downtown Specific Plan area may not be consistent with a comprehensive signage plan. However, there may be an overall signage theme in the Downtown Specific Plan area. If such a theme exists, the signage for each project should be consistent with that theme. Within the Downtown Specific Plan area, signs should be small, with distinctive shapes, unique materials, symbols and textures, and promote a style of signage that maximizes creativity. Refer to the sign code module in this model land use management code for a definition of signs and other applicable regulations. The following guidelines apply specifically to the Downtown Specific Plan area.

§5-1-12.1 Ground-Mounted Pole Signs. Ground mounted pole signs are not permitted in the Downtown Specific Plan area. Monument signs may be permitted as a conditional use, subject to the requirements of Section 7-1 of this code.

§5-1-12.2 Projecting Signs. No portion of a sign shall project above a parapet or eave. Tower elements that are integral to the building architecture can be considered exceptions (e.g., an existing theater marquis).

§5-1-12.3 Historic Wall Signs. Existing painted wall signs that are deemed by the city to have historic significance, shall not be removed, defaced, painted over or covered. Building owners are encouraged to restore these signs and maintain their historic character.

§5-1-12.4 Pedestrian orientation. All signs shall be designed for visual communications to pedestrians and slow-moving vehicular traffic. Signs projecting from the building wall toward the sidewalk are emphasized because they are typical of communities possessing a village scale and pedestrian orientation.

§5-1-12.5 Illumination. In order to maintain the historic quality of the downtown area, signs shall be externally illuminated from concealed sources or approved ornamental exposed fixtures. No internally illuminated signs shall be permitted or replaced, with the exception of neon lighting on theater marquis.

§5-1-12.6 Materials and Color. Three dimensional letter forms provide shape and shadow to building and tenant signs and are preferable to flat, painted-on letters. Wood or metal type or logos may be applied directly to the building façade. Colors on signs should be natural metals, or painted black, white, gray, beige and other colors compatible with the existing signs and building materials. Letter style shall be consistent for each tenant in any multi-tenant building.

§5-1-12.7 Size limitations. Tenant identification signs; including wall, window, awning, and projecting signs, or any combination thereof, shall not exceed one square foot of sign for each linear foot of building frontage, with a maximum of 100 square feet of total signage. Building identification signs, consisting of the name of the building, the address, and the date of construction, shall be limited to 20 square feet maximum. Accessory signage for parking control, pedestrian flow, or other signage not described above shall be limited to four square feet in area maximum.

Commentary: If this module is intended to stand alone, rather than be adopted as a part of the overall land use management code, then the following additional elements of this code should be incorporated into this Resolution [Ordinance]. As noted by Legal Counsel, it is especially important to be clear on who will make decisions and approve development plans under the provisions of this section; that might be a Design Review Board (see 5-2), the Planning Commission (7-3), the Governing Body, or possibly the Land Use Officer.

§2-0 VARIOUS PORTIONS (as appropriate, especially administration by the Land Use Officer)
§7-1 PROCEDURES
§7-2 BOARD OF APPEALS (Variances and Appeals)

Provisions regarding who will approve development plans (see commentary above).

§5-2 DESIGN REVIEW

CONTENTS

§5-2 DESIGN REVIEW

Commentary on Historic Preservation Versus Design Review: Local governments that desire to regulate the architectural appearance of historic properties and historic districts must establish a Historic Preservation Commission via ordinance rather than a Design Review Board as proposed here. See Section 5-3 of this model code for a model ordinance to establish a historic preservation ordinance.

Description and Applicability: Design review, which involves some subjective judgments as to the aesthetics of a given development, is not likely to be acceptable in many rural communities, unless the district applies to an area that has extensive community support for protection. Generally, local governments that are unwilling to adopt land use regulations will be even less willing to suggest or dictate architecture and aesthetic aspects of development. However, local governments are becoming increasingly more concerned with the appearance of development. In some instances, communities that cannot muster political support to regulate the location and mixtures of land use might be able to garner community support to ensure through regulation developments that are architecturally appropriate and compatible. Design review is a process

of reviewing the architecture, aesthetics, and site characteristics of new development within a specifically designated area, or jurisdiction-wide. Its primary purposes are to achieve architectural harmony and aesthetic compatibility between new and existing development. It is strongly recommended that any design review ordinance be accompanied by the adoption (by resolution or ordinance) of design guidelines appropriate to the types and character of buildings and development being reviewed. Section 5-3 of this model code is considered to be a companion code section to this Resolution [Ordinance]. Communities should view the provisions in Section 5-3 of this model code as a menu of possible general guidelines that might apply, depending on the specific nature of development in the jurisdiction. More specific design guidelines that match the particular aspects of the community and areas being regulated are also strongly recommended.

Administrative Requirements for Implementation. Design review requires a fairly elaborate ordinance, and detailed design guidelines are highly recommended. Both of these requirements necessitate professional expertise not often available locally (and perhaps not regionally in Georgia's more rural areas). A building permit system and a site plan review are prerequisites. In addition, some professional expertise is needed on the design review board and on the part of the staff administering the Resolution [Ordinance]. Design review requires more extensive applications for development; for instance, a typical design review application contains architectural elevations and often color and material samples. It is unlikely that rural local governments will have the necessary expertise on staff, and they may not have a sufficient pool of citizens with the requisite professional experience to serve on a review board. The procedure for processing applications for design review are written in a way that they closely track the same procedure as for certificates of appropriateness in historic districts (see Section 5.3 of this model code). However, the design review application procedure does not require public hearings or notices to adjacent property owners, as is the case with reviews within historic districts by a historic preservation commission.

§5-2-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Architectural and Site Design Review Ordinance of the City of _____."

§5-2-2 PURPOSE AND INTENT

Careful attention to the architectural design of buildings and the layout of development sites is in the best interests of the city, its citizens, and business owners. Attractive and integrated architectural and site design features tend to improve an area's image, raise overall property values, attract new businesses and residents, and improve the quality of life. Research and experience have shown that there is a positive return on investment for providing attractive design features, for both government and property owners and can provide similar enhancements to public safety, community health, and well being. This Resolution [Ordinance] establishes a design review board and requires review by the design review board of any new construction or material change in appearance to existing structures.

§5-2-3 APPLICABILITY

This Resolution [Ordinance] shall apply to all non-residential development within the city limits of the City of _____.

Commentary: Applicability refers to the type of development and the jurisdiction or area regulated. Rural counties might apply this Resolution [Ordinance], but it is written to apply to cities where concentrations of development exist. A community may wish to guide architectural design only within a selected district, rather than applying regulations community-wide. If design review is intended to apply only to a portion of the city, the Resolution [Ordinance] should make clear that there are unique features of the area being regulated, not found in other parts of the community, that justify and warrant design review. With regard to types of land uses, it is customary to exclude from design review detached single-family residences. Only in unique circumstances would it be appropriate to regulate individual detached dwellings. With regard to manufactured homes, see the compatibility standards provided in 4-4 of this model code.

§5-2-4 ESTABLISHMENT OF DESIGN REVIEW BOARD

A Design Review Board is hereby established. Said board shall consist of five voting members, who are residents and registered voters of the County [City], each of whom shall serve for terms of three years without compensation. The Design Review Board membership shall be composed

of individuals with the following qualifications in addition to any other qualifications listed in this section:

(a) At least one member shall be an architect with a current state registration;

(b) At least one member shall be a landscape architect with current registration; and,

(c) At least one member shall be a licensed commercial building contractor.

None of the members of the Design Review Board shall be a member of the Governing Body, but one member of the Planning Commission may serve on the Design Review Board. The board members shall be appointed by the Chairman of the Board of Commissioners [Mayor] with the approval of the Board of Commissioners [City Council]. In case any vacancy should occur in the membership of the board for any cause, the Chairman of the Board of Commissioners [Mayor] shall fill such vacancy by making an appointment for the unexpired term with the approval of the Board of Commissioners [City Council]. Any members of the board may be removed by the Chairman of the Board of Commissioners [Mayor] for due cause or upon expiration of term, subject to the approval of the Board of Commissioners [City Council].

Commentary: It may be difficult for small cities or rural counties to find persons who meet the professional qualifications cited above. Another challenge in small cities and rural counties is finding a sufficient number of persons to serve on a board of this type without pay. It is not recommended that the number of persons serving on the Design Review Board be reduced below five members, because the next alternative, (three) might allow too much domination by individual members and a vote of only two members to constitute a majority. If the local government desiring to establish a Design Review Board does not believe it can find people with the professional qualifications established in this section, it could reduce those requirements to what may be feasible. For example, altering the minimum membership qualification of at least three of the five members having special qualifications or expertise in the areas of architecture, landscape architecture, building construction, or land planning. In any event, it is advisable that the majority of Design Review Board has relevant professional credentials. Local governments might consider appointing the Land Use Officer or designated officer as the design review agent in lieu of a board. However, placing discretionary authority for architectural design and appearance in a single individual is risky due to possibilities that such discretion will be abused. If a local government places discretion for design review approval in a single administrative official such as the Land Use Officer or designated officer, then the Resolution [Ordinance] should provide substantial, specific design guidelines that move

the design review process more into the realm of objective standards than discretionary judgment. Also, when a single administrator is responsible for design review, an appeal to higher authority must be provided to guard against abuse of discretion.

§5-2-5 AUTHORITY OF THE DESIGN REVIEW BOARD

The Design Review Board is authorized to receive, consider, grant, grant with conditions, or deny applications for design review as required by this Resolution [Ordinance]. In granting a design review approval, the Board may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth herein, as may be deemed necessary for the protection of adjacent properties and the public interest. Decisions of the Design Review Board shall be final unless an appeal to the Mayor and City Council is filed no later than 30 days of the decision of the Design Review Board.

Commentary: An appellant may file immediately after a decision under this provision and does not have to wait the full 30 days. The appeal would typically be heard at the next regular meeting or after due notice was given.

§5-2-6 MEETINGS OF THE BOARD

The Design Review Board shall adopt rules of procedure as are necessary to carry out the purposes of its authority. The Board shall establish a regular meeting date and time for its meetings. However, meetings shall be held only on an as-needed basis. All meetings shall be open to the public. The Board shall appoint a secretary, who shall be the Land Use Officer or designated officer to record the minutes of its proceedings, showing the action of each board member upon each question. The Board shall keep records of its examinations and other official actions, all of which shall be filed with the County [City] Clerk and which shall be public records. The Land Use Officer or designated officer shall serve as the advisor to the Board, except in cases of an appeal from a decision of the Land Use Officer or designated officer.

§5-2-7 DEFINITIONS

Commentary: This section provides a glossary of terms related to architectural design. Except for the term "material change in appearance," these definitions lack a specific regulatory context unless the local jurisdiction also adopts the companion code provision on design guidelines (see Section 5-3 of this model code). It is recommended that the architectural design-related definitions be adopted within the design review ordinance itself, rather than as a part of the design guidelines module. For additional definitions, especially those related to types of land uses and development features, see §6-1 of this model code. Depending on the complexity of architectural review sought, some of the definitions in this section may not be needed.

Amenity: Aesthetic or other characteristics that increase a development's desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as recreational facilities, pedestrian plazas, views, streetscape improvements, special landscaping, or attractive site design.

Appearance: The outward aspect that is visible to the public.

Appropriate: Fitting to the context of a site, neighborhood or community.

Architectural concept: The basic aesthetic idea of a structure, or group of structures, including the site, signs, buildings and landscape development that produces the architectural character.

Architectural features: Functional, ornamental or decorative features integral or attached to the exterior of a structure, including roof elements, cornices, eaves, gutters, belt courses, sills, lintels, windows, doors, transoms, fan lights, side lights, chimneys, and elements of exterior embellishment.

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.

Architecture: The art and science of designing and constructing buildings adapted to their purposes, one of which is beauty.

Attractive: Having qualities that arouse satisfaction and pleasure in numerous, but not necessarily all, observers.

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.

Awning, internally illuminated: A fixed awning covered with a translucent membrane that is, in whole or part, illuminated by light passing through the membrane from within the structure.

Balustrade: A railing consisting of a handrail or balusters.

Build-to line: An alignment established a certain distance from the curb or right-of-way line to a line along which a building or buildings shall be built.

Building bulk. The visual and physical mass of a building.

Built environment: The elements of the environment that are generally built or made by people as contrasted with natural processes.

Canopy: A roof-like structure, supported by a building and/or columns, poles, or braces extending from the ground, including an awning, that projects from the wall of a building over a sidewalk, driveway, entry, window, or similar area, or which may be freestanding.

Character: The nature of a building or site.

Cohesiveness: Unity of composition among elements of a structure or among structures, and their landscape development.

Common area: Land within a development, not individually owned or dedicated to the public, and designed for the common usage of the development. These areas include green open spaces and yards and may include pedestrian walkways and complimentary structures and improvements for the enjoyment of residents of the development. Maintenance of such areas is the responsibility of a private association, not the public.

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict; with regard to buildings, harmony in appearance of architectural features in the same vicinity.

Continuity: The flow of elements or ideas in a non-interrupted manner.

Cornice: A horizontal element member, structural or nonstructural (i.e., molding), at the top of the exterior wall or projecting outward from an exterior wall at the roofline, including eaves and other roof overhang.

Design guideline: A standard of appropriate activity that will establish, preserve, or enhance the architectural character and site design and function of a building, structure, or development.

Detail: A small feature or element that gives character to a building.

Dormer: A window projecting from a roof.

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

Eave line: The extension of a roofline beyond the vertical wall of a building.

External design feature: The general arrangement of any portion of structures or landscaping, including the type, and texture of the materials, the type of roof, windows, doors, lights, signs, and fixtures of portions which are open to the public view.

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

Façade, front: Any façade with a main public entrance that faces one of the primary streets.

Façade, rear: Any façade without a public entry that does not face a public road.

Façade, side: Any façade without a public entry but facing a public street.

Fenestration: The organization of windows on a building wall.

Footprint: The total square footage on the ground of all buildings and structures on a site, measured from the outside of all of the exterior walls and supporting columns. It may include attached or detached garages, covered carports, roofed or unroofed porches and decks, and accessory structures, if such are defined within the design ordinance as contributing to footprint calculations.

Gable: The triangular upper portion of an end wall, underneath a peaked roof.

Grade, natural: The existing grade or elevation of the ground surface that exists or existed prior to man-made alterations, such as grading, grubbing, filling, or excavating.

Habitat: The physical location or type of environment, in which an organism or biological population lives or occurs.

Harmony: A quality that represents an attractive arrangement and agreement of parts of a composition, as in architectural elements.

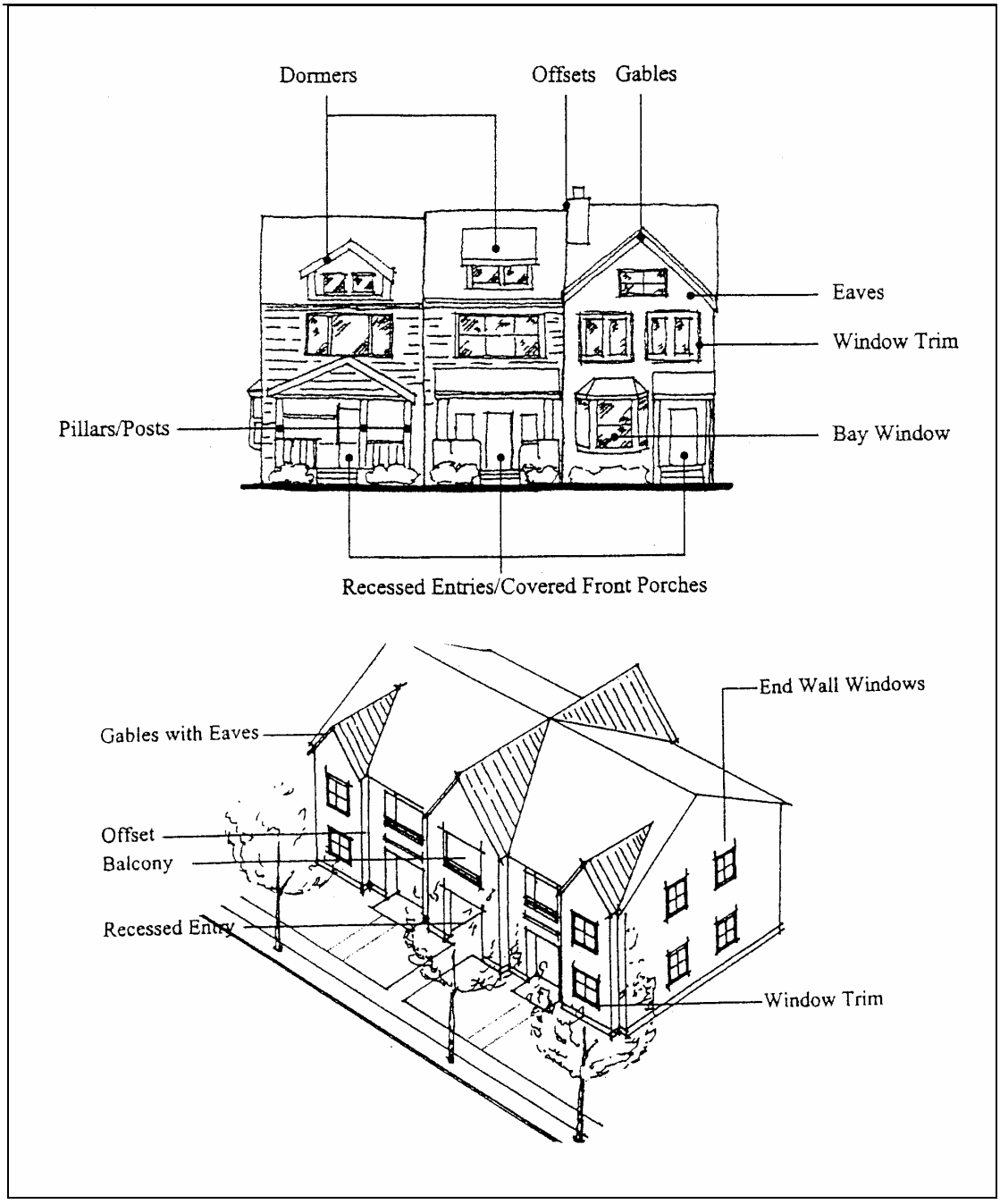
Hedge: A row of closely planted shrubs, bushes, or any kind of plant forming a boundary.

Landscaping: The area within the boundaries of a given lot that consists of planting materials, including but not limited to, trees, shrubs, ground covers, grass, flowers, decorative rock, bark, mulch, and other similar materials.

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. (See Figure 5-2-7.1).

Figure 5-2-7.1

Selected Architectural Details.



Source: Oregon Transportation and Growth management Program 1999.

Material change in appearance: A change that will affect either the exterior architectural or environmental features of a building, structure, land use activity, or development site. A material change in appearance shall at minimum include the following: the construction of a new building or structure; the reconstruction or alteration of the size, shape, or façade of an existing building or structure, including any of its architectural elements or details; commencement of excavation for construction purposes; and installation of freestanding walls, fences, steps, and pavements, or other appurtenant features.

Modularity: Design composition comprised of a rhythmic organization of parts.

Modulation: A measured setback or offset.

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

Natural features: Components and processes present or produced by nature, including soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, climate, floodplains, aquatic life, and wildlife.

Parapet: A low retaining wall at the edge of or along a roof.

Pedestrian-oriented development: Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades that face the street.

Portico: An exterior appendage to a building, normally at the entry, usually roofed.

Proportion: Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

Ridge: The peak of a roof. Also, the horizontal member at the peak into which the rafters join.

Roof: The cover of a building, including the eaves and similar projections.

Roof, flat: A roof having no pitch or a pitch of not more than 2:12.

Roof, pitched: A shed, gabled, or hipped roof having a slope or pitch of at least two foot rise for each 12 feet of horizontal distance.

Scale: Proportional relationships of the size of parts to one another and to humans.

Scenic vista: A visual panorama with particular scenic value.

Street furniture: Those features associated with a street that are intended to enhance the street's physical character and use by pedestrians, such as benches, trash receptacles, planting containers, pedestrian lighting, kiosks, etc.

Street hardware: Objects other than buildings or street furniture that are part of the streetscape. Examples are: non-pedestrian street light fixtures, utility poles, traffic lights and their fixtures, fire hydrants, etc.
Streetscape: The appearance and organization along a street of buildings, paving, plantings, street hardware, street furniture, and miscellaneous structures.
View corridor: The line of signed identified as to height, width, and distance of an observer looking toward an object.
Viewshed: The area within view from a defined observation point.

§5-2-8 DESIGN REVIEW AND APPROVAL REQUIRED

No building or structure shall be erected (nor shall any material change in the exterior appearance of any existing building, structure, or activity be allowed), until and unless a design review application has been made to the Land Use Officer or designated officer and approved by the design review board in accordance with the provisions of this Resolution [Ordinance]. Prior to any material change in appearance, the Land Use Officer or designated officer must issue a certificate of design review approval, after approval by the design review board. No building permit or land use permit requiring review and approval by the design review board shall be issued by the Land Use Officer or designated officer, unless the permit has received design review approval from the design review board and a certificate of design review approval has been issued by the Land Use Officer or designated officer or designated officer.

§5-2-9 EXEMPTION FOR MINOR CHANGES

Where the requested change, a minor alteration, the Land Use Officer or designated officer may waive any of the information requirements of this Resolution [Ordinance] for design review application. The Land Use Officer or designated officer may consult with the chairman of the design review board in making exemptions pursuant to this section.

§5-2-10 PRE-APPLICATION CONFERENCE

All applicants for design review and approval are strongly encouraged but not required to schedule a pre-application conference with the Land Use Officer or his or her designee. A pre-application conference is a time where applicants can familiarize themselves with the

application requirements and processes and gain preliminary input from staff as to the suitability of the proposed material change in appearance. Typically, the board is not represented at pre-application conference, although this does not preclude one or more members of the board from attending and participating in a pre-application conference.

§5-2-11 APPLICATION REQUIREMENTS

All applications for design review approval shall be made as required by the Land Use Officer or designated officer and shall at minimum contain the following information:

§5-2-11.1 Elevation Drawings, Color and Material Samples. Every application or review involving the construction of a new building or structure, alterations, and/or additions to existing structures shall be accompanied by exterior elevation drawings, drawn to scale and signed by an architect, engineer or other appropriate professional. These shall be submitted in sufficient number of copies as required by the Land Use Officer or designated officer. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed change(s) to buildings or structures and new construction, as applicable. Each application shall also indicate proposed materials, textures and colors, and provide samples of materials and colors.

§5-2-11.2 Photographs. All applications shall be accompanied by photographs of all sides of the existing building(s) or structure(s) affected, and of adjoining properties. Photographs shall be submitted in printed copy and in digital form unless otherwise specified by the Land Use Officer or designated officer.

§5-2-11.3 Site Plan and Landscaping Plan. For every application, a plot plan or site plan, drawn to scale, shall be submitted which shows all improvements affecting appearances, such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs, lights, and other elements.

§5-2-11.4 Fee. A fee, as may be established by the Board of Commissioners [Mayor and City Council], shall be submitted for said application.

§5-2-11.5 Additional Information. The Land Use Officer may reasonably require any additional information as or designated officer shall be submitted with the application.

§5-2-12 CRITERIA FOR ACTING ON DESIGN REVIEW APPLICATIONS

In passing on applications for design review and approval, the design review board shall consider the appropriateness of any proposed material change in appearance in the context of the following criteria:

(a) Consistency with any adopted design guidelines for the type of development, and/or the proposed use.

(b) The nature and character of the surrounding areas, and the consistency and compatibility of the proposed application with such nature and character.

(c) The general design, character and appropriateness of design, scale of buildings, arrangement, texture, materials, and colors of the structure in question and the relation of such elements to similar features of structures in the immediate surrounding area, site, and landscaping.

(d) The board shall not consider interior arrangement or use as having any effect on exterior architectural features.

(e) The following are other grounds for considering a design inappropriate.

(1) Character foreign to the area.

(2) Arresting and spectacular effects.

(3) Violent contrasts of material or color, or intense or lurid colors.

(4) A multiplicity or incongruity of details resulting in a restless and disturbing appearance.

(5) The absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

§5-2-13 ACTION BY DESIGN REVIEW BOARD

A decision by the board on a design review application shall be made within 45 days from the date a complete application is received. The design review board shall approve the application and direct the Land Use Officer or designated officer to issue a certificate of design approval if it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic or architectural significance and value of adjacent and nearby properties,

and if the board finds the application is consistent with the criteria for judging applications for design review and approval as established in this Resolution [Ordinance]. The board may deny an application for a design review and approval when in the opinion of the board such proposed change would be detrimental to the character of the area. In the event the board rejects an application, it shall state its reason(s) for doing so and shall transmit a record of such action and the reason(s) for rejection, in writing, to the applicant. The board may suggest alternative courses of action it thinks proper and conditionally approve the application if the applicant agrees to the conditions, or the Board may not approve the application as submitted. The applicant, if he or she so desires, may make modifications to the plan(s) and may resubmit the application. The denial of an application for a design review and approval shall be binding on the Land Use Officer or designated officer and, in such a case of denial, no building permit shall be issued.

§5-2-14 CHANGES AFTER BOARD APPROVAL

After the issuance of a certificate of design review and approval, no material change in the appearance shall be made or permitted to be made by the owner or occupant thereof, unless and until all requirements of this Resolution [Ordinance] are met.

§5-3-15 APPEALS

Any person adversely affected by any determination made by the design review board relative to the issuance or denial of a certificate of design review and approval may appeal such determination to the Mayor and City Council. For purposes of this section, an adversely affected person is one who demonstrates that his or her property will suffer special damage as a result of the decision complained of, rather than merely some damage that is common to all property owners and citizens similarly situated. The appeal must be filed within 30 days of the decision of the board and must be made by petition delivered to the Land Use Officer or designated officer. The appeal shall be on the application exactly as presented to the board. The Mayor and City Council may approve, modify and approve, or reject the determination made by the board if it finds that the board abused its discretion in reaching its decision. Appeals from decisions of the Mayor and City Council made pursuant to this section may be taken to superior court of _____ County in the manner provided by law.

§5-2-16 ENFORCEMENT

After a certificate of design review and approval has been issued, the Land Use Officer or designated officer shall from time to time inspect the construction approved by such authorization. The city, through the Land Use Officer, designated officer, or City Attorney, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance, except those changes made in compliance with the provisions of this Resolution [Ordinance], or to prevent any illegal act or conduct with respect to this Resolution [Ordinance].

References:

Jerry Weitz & Associates, Inc. 2001. Development and Design Guidelines for the Georgia 400 Corridor, Dawson County, Georgia. Dawsonville: Dawson County Department of Planning.

OTAK, Inc. 1999. Model Development Code and User's Guide for Small Cities. Salem: Oregon Transportation and Growth Management Program.

§5-3 DESIGN GUIDELINES

CONTENTS

§5-3 DESIGN GUIDELINES

Comment on Applicability: If a local government establishes a design review board, design guidelines, specific to the local jurisdiction, should be prepared, adopted, and applied by the board. In the absence of guidelines specific to a particular jurisdiction, the following design guidelines might be appropriate for use by local governments. Note that the guidelines pertain to a variety of topics, including lighting, industrial districts, drainage, and architectural design. Local governments should determine which types of guidelines are applicable in their jurisdiction and choose only those that apply in the community.

Comment on Regulations Versus Guidelines. This module is intended to provide guidelines rather than regulations. As such, compliance is voluntary rather than mandatory. They should be applied in individual instances but should be considered variable in the judgment of the board or officer making the decision on the design application.

§5-3-1 PURPOSE AND INTENT

Left to its own workings, the real estate development industry is unlikely to produce development that is coordinated with adjacent buildings and uses. These design guidelines provide a set of criteria to evaluate the appropriateness of proposed changes to individual buildings, properties, and land use activities in a designated area or community. The ultimate

goal of design guidelines is to direct physical and visual changes to create an architecturally and physically cohesive area of specified character. Design guidelines are meant to create a strong identity for the area as a distinctive place to shop, visit, work, and live. Design guidelines are a means of bringing together the interests of individual property owners and the general public to achieve mutual benefits.

Without guidance, future developments will likely be self-contained, compartmentalized, and without coherence and relationship with other developments. Without guidance, developers are unlikely to interrelate streets, buildings, human uses, and natural systems in a manner that results in a coordinated, pleasing, and sustainable-built environment across property lines.

These guidelines are intended to help site planners and urban designers look beyond their individual buildings and single parcels of land, to shape the physical features of their development in a manner consistent with preferred principles of community design. The guidelines seek to help unify what would otherwise become a disparate and irreconcilable collection of land uses and architectural traditions.

§5-3-2 SITE PLANNING

The site plan, building design, and landscaping of new development should achieve high quality and appearance that will enhance and be compatible with the character of the surrounding area.

Site planning and design of projects proposed (adjacent to dissimilar land uses) should carefully address the potential undesirable impacts on existing uses. These impacts may include traffic, parking, circulation and safety issues, light and glare, noise, odors, dust control and security concerns.

Commentary: This model code provides regulations that address some of these off-site impacts. For more specific and stronger provisions regarding off-site impacts, see Section 3.1 of this model code.

§5-3-3 PROTECTING THE NATURAL ENVIRONMENT

(a) Evaluate the proposed development's compatibility with the existing environment to determine the limitations and capabilities of the site for development.

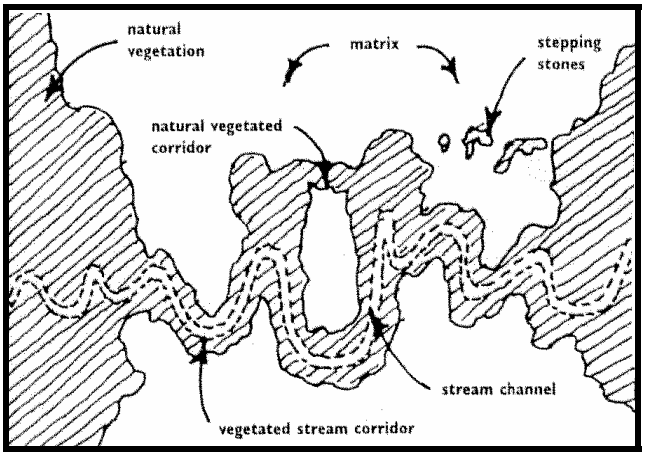
(b) Conserve and protect natural resources, including air quality, trees, natural vegetation, existing topography, streams, creeks, wetlands, watersheds, water quality, and wildlife habitat. Development should be limited to a level that does not exceed the capabilities and requirements of a healthy environment.

(c) Significant site features such as habitats, natural ground forms, existing site vegetation, large rock outcroppings, water, and significant view corridors should be identified and incorporated into development plans. Where possible, a diversity of habitats is preferred.

(d) Riparian zones, stream corridors, and wetlands should be protected for their wildlife habitat and other values. Development plans for these areas should treat these components as assets. A continuous, connected, natural vegetative corridor should be preserved along all creek and stream corridors to provide stream quality protection and for the efficient movement of wildlife throughout the area. No fill, removal, or modification of a riparian area should take place, unless there is no reasonable and feasible alternative. The alteration or improvement of significant natural resource areas where permitted, should ensure that potential losses are mitigated and best management practices are employed to minimize permanent damage. (See Figure 5-3-3.1).

Figure 5-3-3.1

Retention of Vegetated Stream Corridor

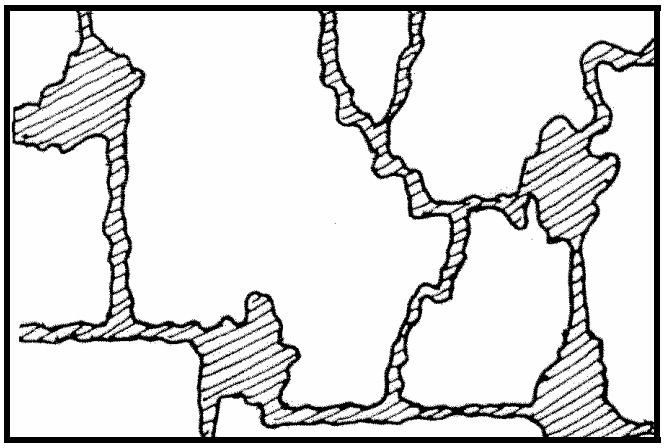


Source: Dramstad, Olson and Forman 1996.

(e) Existing vegetation should be retained to the maximum extent possible. Clearing of native vegetation should be limited to that required for the provision of essential purposes (i.e., access, building, sewage disposal, etc.). Where appropriate, existing native vegetation should be enhanced with plantings of the same variety.

(f) Preserve patches of high-quality habitat, as large and circular as possible, feathered at the edges, and connected by wildlife corridors. (See Figure 5-3-3.2).

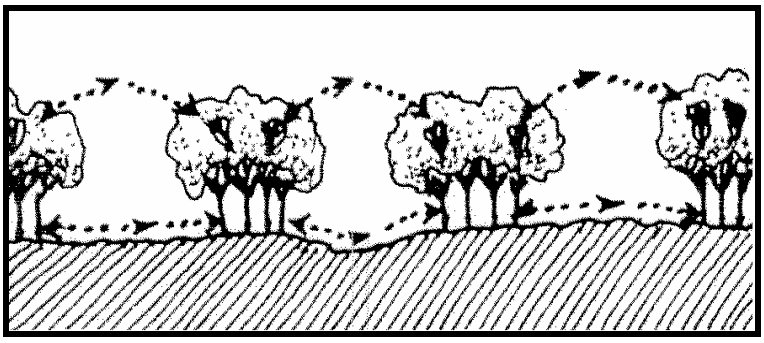
Figure 5-3-3.2
Habitat Patch Preservation and Connection



Source: Dramstad, Olson and Forman 1996.

When continuous greenspace corridors cannot be provided or must be broken up for road access or other valid reasons, patches should be retained as “stepping stones” for wildlife corridors. (See Figure 5-3-3.3).

Figure 5-3-3.3
Stepping Stones



Source: Dramstad, Olson and Forman 1996.

§5-3-4 SITE GRADING

(a) Developments should be designed to fit the existing contours and landform of the site and to minimize the amount of earthwork. Excavation and earthwork should be kept to a minimum to reduce visual impacts and erosion. Where cut and fill is required, balancing the cut and fill is highly encouraged.

(b) Abrupt or unnatural-appearing grading is strongly discouraged. Avoid the creation of harsh, easily eroded banks and cuts.

(c) The height and length of retaining walls should be minimized and screened with appropriate landscaping. Tall, smooth-faced concrete retaining walls should be avoided in highly visible areas. Terracing should be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.

(d) Disturbed areas that are not used for roads, buildings, or other auxiliary uses should be replanted.

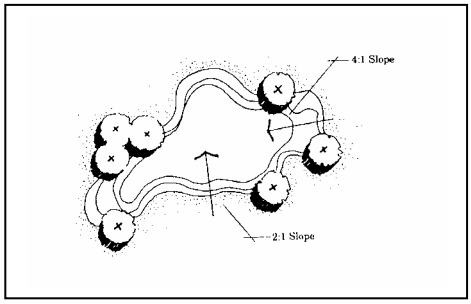
§5-3-5 DRAINAGE

(a) Natural on-site drainage patterns should be used where practicable. Detain runoff with open, natural drainage systems where possible.

(b) Design man-made lakes and stormwater ponds for maximum habitat value and/or to serve as amenity features. (See Figure 5-3-5.1).

Figure 5-3-5.1

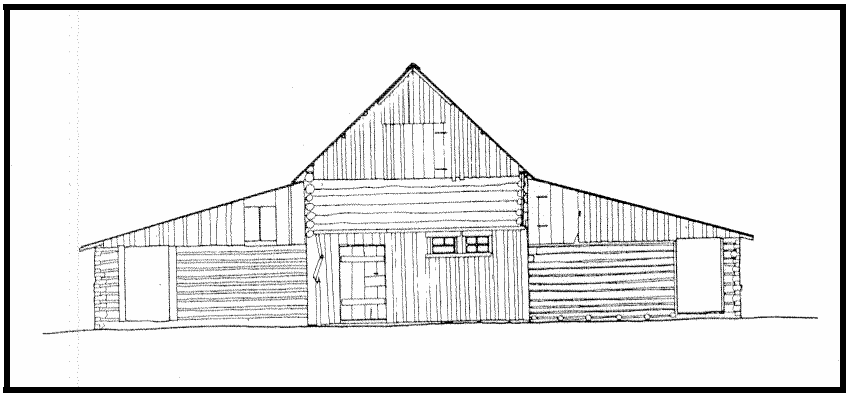
Drainage Feature as an Amenity



§5-3-6 RETAINING RURAL RESIDENTIAL CHARACTER

(a) Where possible, barns and other agricultural outbuildings in reasonably good condition and which contribute to the rural character of the area should be retained on the site (see Figure 5-3-6.1).

Figure 5-3-6.1
Retention of Agricultural Structures

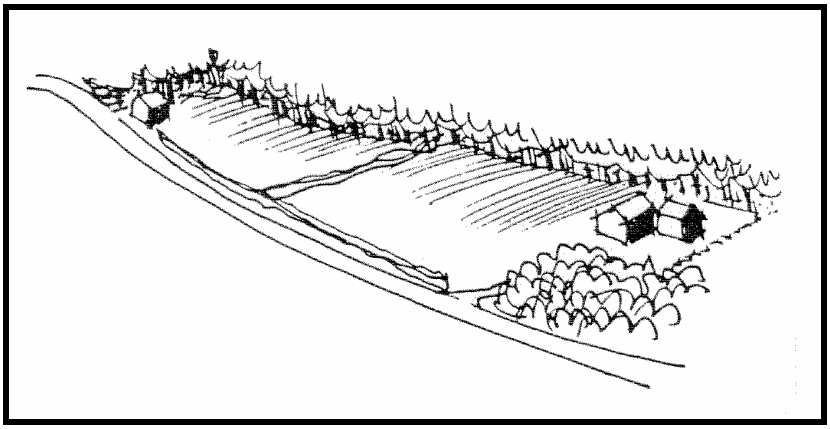


Source: Stokes et al. 1989.

(b) Dwellings and driveways should not be prominent visual features within the landscape along any existing rural road. Dwellings and associated outbuildings along existing rural roads should have a low visual impact. When a rural residential dwelling is proposed in an area with an open field or area with agricultural character, it should be sited at the edge of the field if possible to preserve the view of the open field, pasture, or agricultural scene (see Figure 5-3-6.2).

Figure 5-3-6.2

Site Dwellings at Edges of Fields



Source: Craighead 1991.

(c) In siting rural residential dwellings, gouging out (i.e., clearcutting) building sites along the road (Figure 5-3-6.3) is strongly discouraged. Instead, rural dwelling sites should leave a natural buffer along the road and houses should be sited at the edge of clearings rather than in the center (Figure 5-3-6.4).

Figure 5-3-6.3

Clearcutting Discouraged

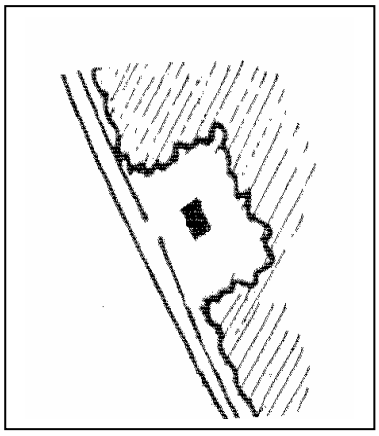
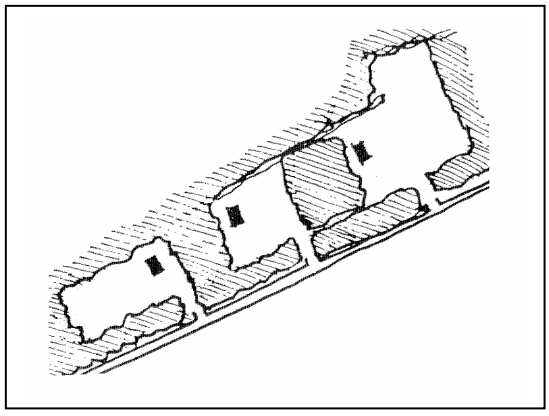


Figure 5-3-6.4

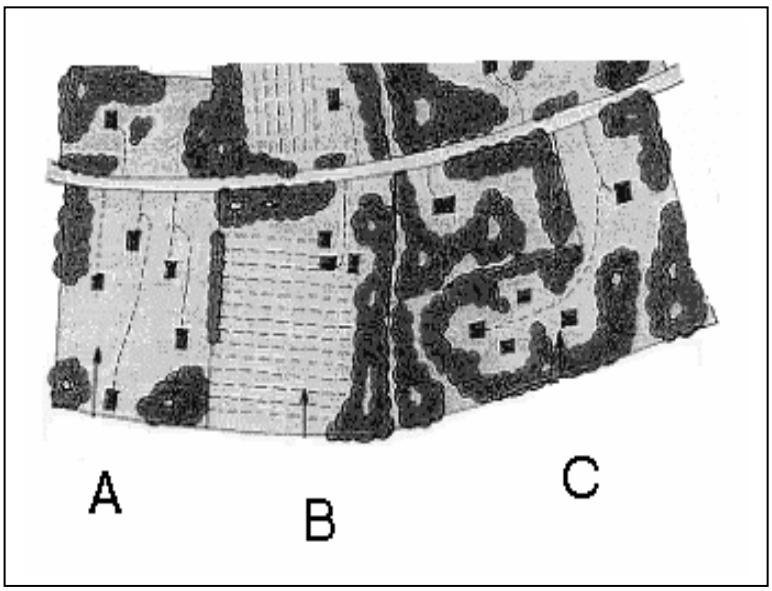
Dwellings Buffered



Source: Craighead 1991.

d) Dwellings sited within an open field are discouraged (see area A in Figure 5-3-6.5). The location of dwellings in Area B of the illustration improves on the locations shown in area A, but the residences are still visible from the road. In the bottom part of area C (Figure 5-3-6.5), dwellings are clustered and screened from view. In the top part of area C, the road should be located at the edge of the clearing rather than in the middle of the field, and the dwellings should be located closer to the tree line.

Figure 5-3-6.5
Siting Dwellings in Rural Areas



Source: Arendt 1994.

§5-3-7 ARCHITECTURAL DESIGN

(a) Architectural design should be compatible with the developing character of the neighboring area. Design compatibility includes complementary building style, form, size, color, materials, and detailing.

(b) The designer should consider each of the following contexts as part of the design process:

(1) Size (the relationship of the project to its site);

(2) Scale (the relationship of the building to those around it);

(3) Massing (the relationship of the building's various parts to each other);

(4) Fenestration (the placement of windows and doors);

(5) Rhythm (the relationship of fenestration, recesses and projections);

(6) Setback (in relation to setback of immediate surroundings);

(7) Materials (their compatibility with the historic district); and,

(8) Context (the overall relationship of the project to its surroundings).

Commentary: For definitions, see Section 5-2 of this model code.

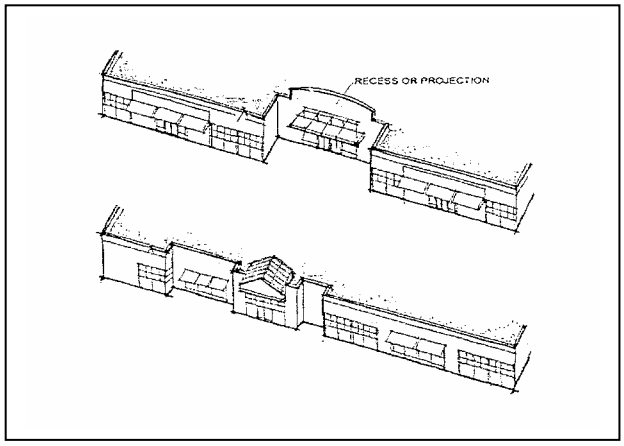
(c) Efforts to coordinate the height of buildings and adjacent structures are encouraged; this is especially applicable where buildings are located very close to each other. It is often possible to adjust the height of a wall, cornice, or parapet line to match that of an adjacent building. Similar design linkages, such as window lines, should be placed in a pattern that reflects the same elements on neighboring buildings.

(d) Diversity of architectural design should be encouraged. "Theme" or stylized architecture which is characteristic of a particular historic period or trend is discouraged, unless the existing building or site is historically important to the district or necessary for architectural harmony.

(e) Multiple buildings on the same site should be designed to create a cohesive visual relationship between the buildings.

(f) Long or continuous wall planes shall be avoided, particularly in pedestrian activity areas, where buildings should exhibit more detail and elements appropriate for close range pedestrian view. Outside of pedestrian retail districts, building surfaces over two stories high or 50 feet in length should be relieved with changes of wall plane (i.e., recesses and projections, see Figure 5-3-7.1) that provide strong shadow or visual interest.

Figure 5-3-7.1
Recesses and Projections



§5-3-8 BUILDING MATERIALS, FINISHES, AND COLORS

(a) All sides of a building may have an impact on its surroundings and should be considered for treatment with an architectural finish of primary materials (i.e., brick, wood and stone), unless other materials demonstrating equal or greater quality are used. As a general rule, front facades should be at least 80 percent brick and stone. Side facades should be at least 50 percent brick and stone. Rear facades do not have a minimum requirement for primary materials and can consist entirely of secondary materials (e.g., stucco). Tertiary materials (i.e., wood and metal) should be used for decorative elements and trim only.

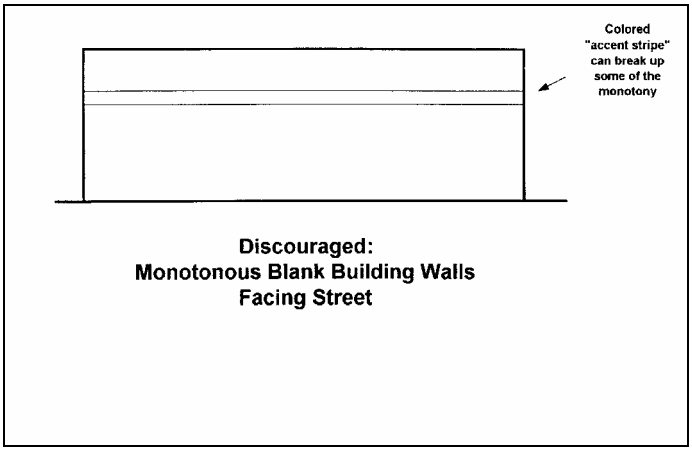
(b) Exterior building materials on the primary structure should not include smooth-faced concrete block, tilt-up concrete panels, or prefabricated steel panels.

(c) The following types of building materials should not be used: highly reflective, shiny, or mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames; exposed, unfinished foundation walls; exposed plywood or particle board; and unplastered, exposed concrete masonry blocks.

(d) Material or color changes generally should occur at a change of plane. Piecemeal embellishment and frequent changes in material should be avoided.

(e) A horizontal accent stripe (e.g., a foot wide stripe of different color, see Figure 5-3-8.1) should be used to help reduce the monotonous color and break up the appearance of large building walls.

Figure 5-3-8.1
Monotonous Blank Building Walls

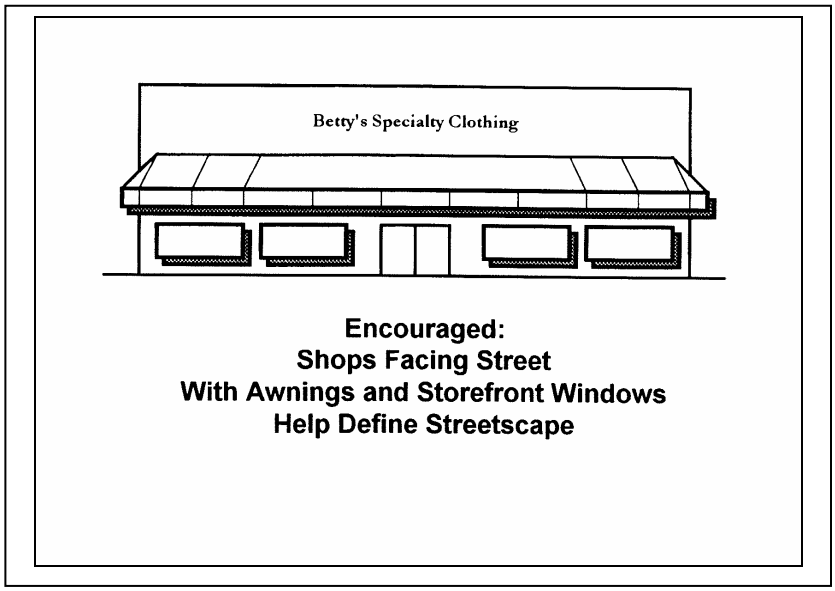


(f) Facade colors should be low reflectance, and subtle, neutral, or earth-tone colors. High-intensity colors, metallic colors, black, or fluorescent colors should not be used. Building trim and accent areas may feature brighter colors, including primary colors, provided that the width of the trim shall not exceed four feet.

(g) Building colors should be carefully chosen so that each building color complements that of its neighbors. Colors can be classified as the “base” color (used on the majority of the building surface), “trim” color (used on the window trim, fascia, balustrades, and posts), and “accent” color (used on signs, awnings, and doors). The base color should consist of more subdued earth tones or brick shades. Trim colors should have contrasting lighter or darker shade than the base color. If natural brick is used, it should not be painted.

(h) The use of awnings on buildings is recommended to provide much needed protection from sun, wind, and rain, and to improve aesthetics of the building exterior. (See Figure 5-3-8.2).

Figure 5-3-8.2
Awnings and Storefront Windows



(i) It is recommended that awnings be constructed with a durable frame, covered by a canvas material. Awnings that are backlit through translucent materials may be acceptable but are not particularly encouraged. Aluminum and other metal canopies are

acceptable in most instances, particularly when integrated into shopping center designs. Flameproof vinyl, canvas or metal awnings and canopies may be used.

(j) Solid colors are preferred over striped awnings, but striping is permitted if colors complement the character of the structure or group of buildings.

(k) Awnings are encouraged for first floor retail uses to provide architectural interest and to encourage pedestrian activity. Where awnings are used, they should be designed to coordinate with the design of the building and any other awnings along the same block face.

(l) The design of fences and walls shall be compatible with the architecture of the main building(s) and should use similar materials. All walls or fences 50 feet in length or longer, and four feet in height or taller, should be designed to minimize visual monotony by changing plane, height, material or material texture, or significant landscape massing. Chain link fencing is discouraged. Use of special fencing design or materials should be discussed in cases where site security is paramount. If used, chain link fences should be vinyl coated (black or green colored vinyl encouraged).

(m) All garbage dumpsters and other similar areas devoted to the storage of waste materials should be screened on three sides of said dumpster or area, with a minimum six-foot high solid wooden fence or a wall constructed of materials substantially similar in appearance to the building on site. In addition, said dumpster areas should be gated on the fourth side with a material that provides opaque screening.

§5-3-9 AUTOMOBILE-RELATED ESTABLISHMENTS

(a) Auto service facilities should not have their service bays facing the street, and parking for all uses should be located to the side or rear of the building rather than in the front yard. Service areas and/or service bays should be screened or sited so they are not visible from the street.

(b) Vehicles under repair should be kept either inside a structure or in an area that is screened from view from the street.

(c) Service areas shall provide adequate queuing space that does not impede vehicle circulation through the site or result in vehicles stacking into the street.

(d) Perimeter and security fencing, when needed, should be constructed of attractive materials that are compatible with the design and materials used throughout the project.

(e) Razor wire or electric fencing should not be used, and chain link fencing is discouraged, but if used, should be vinyl coated.

(f) Separate structures on the site (i.e., canopy, car wash, cashier's booth, etc.) should have consistent architectural detail and design elements to provide a cohesive project site. If a car wash is incorporated into the project, it should be well integrated into the design. The car wash opening should be sited so that it is not directly visible as the primary view from the street into the project site.

(g) Where permitted, the outside storage or display of vehicles, equipment, and merchandise to be rented, leased, or sold, including manufactured home sales, should be visible along no more than 30 percent of the frontage of the property abutting a highway or street, excluding approved driveway entrances and exits. Screening may be accomplished by using a natural vegetative buffer; a building; an earthen berm; a 100 percent opaque, solid wooden fence or wall; or a combination of these screening methods. The use of low-lying landscaping that does not screen the display areas from the public view right-of-way would not comply with this guideline.

§5-3-10 INDUSTRIAL DISTRICTS

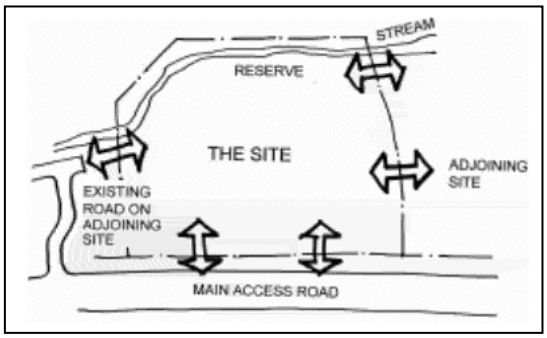
(a) Industrial districts are typically laid out in a gridiron of large blocks, 1,000 to 2,000 feet long and 400 to 1,000 feet deep. Road right-of-ways should be 80 to 100 feet for major roads and 60 feet for secondary roads. Curves and radii shall be large enough to accommodate large trailer trucks.

(b) All areas devoted to the outside storage of vehicles, merchandise, and/or equipment that are not intended for display, or for public rent, lease, or sale, shall be screened from view from the right-of-way of the highway or public road along the entire property frontage, except in areas where access crossings have been approved. A view from the public right-of-way shall not be deemed to comply with this requirement.

§5-3-11 ACCESS

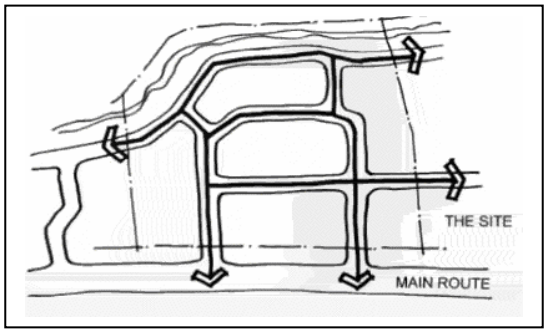
(a) The entire parcel, rather than simply a particular project, shall be considered in formulating and approving access plans. (See Figure 5-3-11.1).

Figure 5-3-11.1
Access Considerations



(b) The street layout within planned communities should provide as many direct links to adjacent sites and surrounding roads as practical. (See Figure 5-3-11.2).

Figure 5-3-11.2
Connectivity

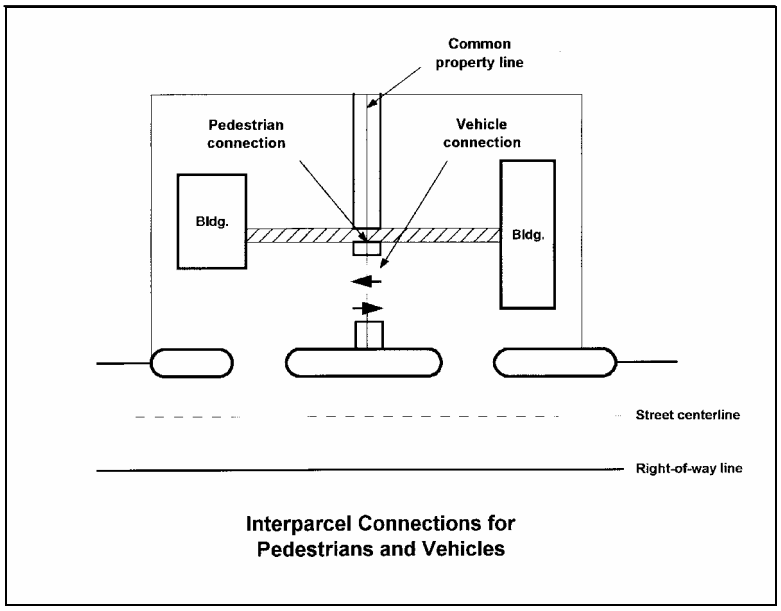


(c) The street pattern should be designed to allow easy direct access to and from various origins and destinations.

(d) Interparcel site access, for pedestrians as well as vehicles, should be provided to adjacent properties, when land uses are compatible. (See Figure 5-3-11.3).

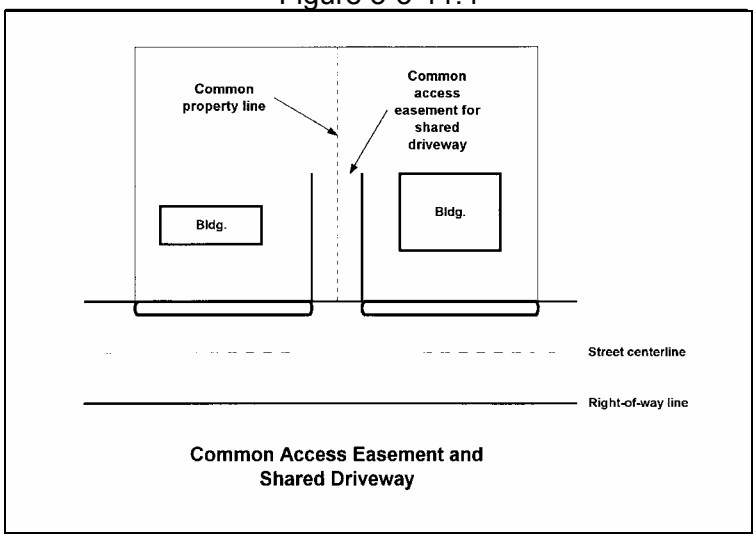
Figure 5-3-11.3

Interparcel Connections



(h) Common access easements for shared driveways along state highways and busy streets are strongly encouraged. (See Figure 5-3-11.4).

Figure 5-3-11.4



(f) If at all feasible with the development plan, service functions (e.g., deliveries, maintenance activities) shall be integrated into the circulation pattern in a manner that minimizes conflicts with vehicles and pedestrians. Commercial and industrial developments should have service and loading areas separate from main circulation and parking areas.

§5-3-12 EXTERIOR LIGHTING

Commentary: Local governments should consider requiring, rather than simply encouraging, cutoff luminaires. For lighting regulations, see Section 3.1 of this model code.

The following are exterior lighting recommendations consistent with the requirements as specified in this code and illustrated in Figure 5-3-12.1.

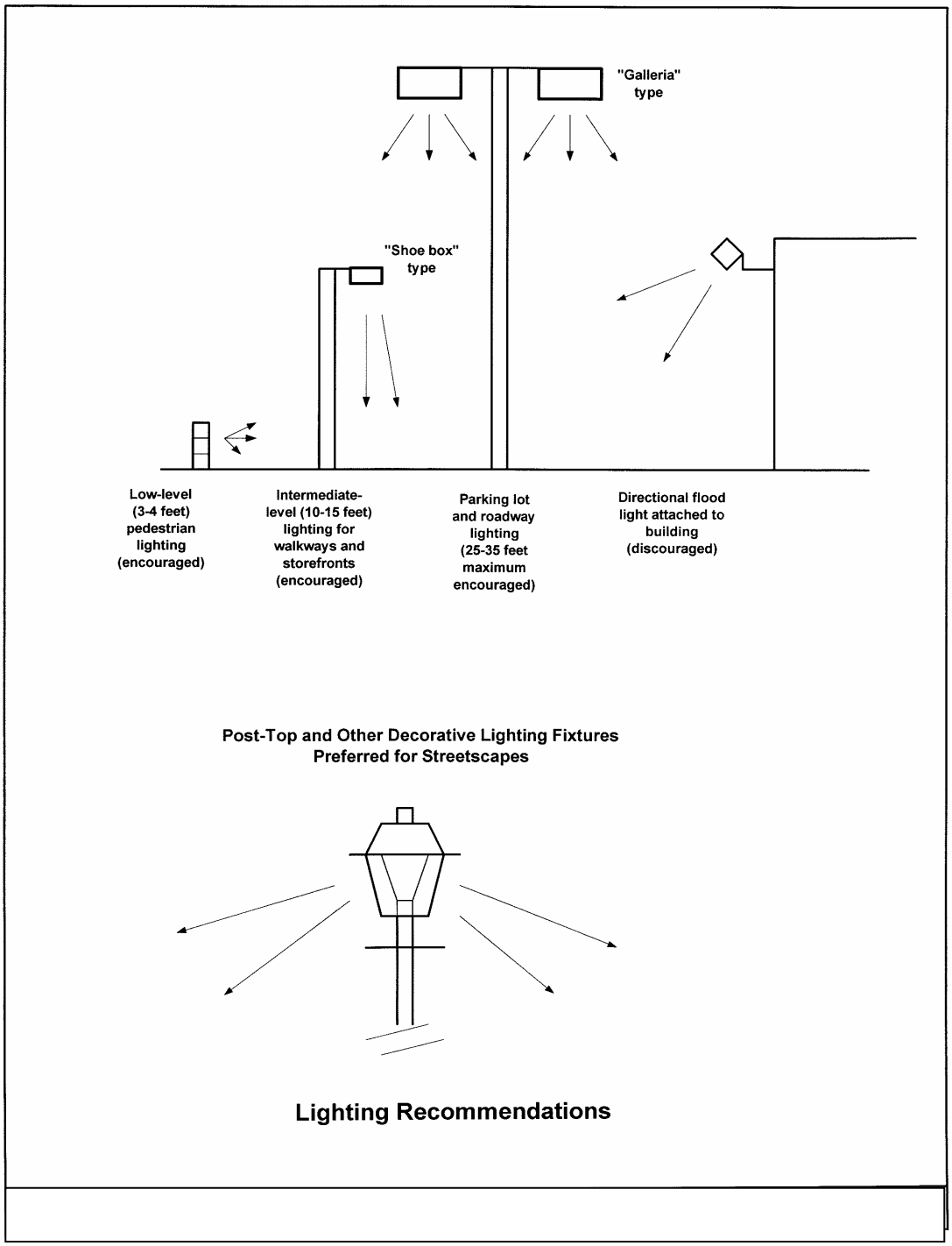
(a) Exterior lighting should be architecturally compatible with the building style, material, and colors. Galleria style and shoebox styles (cutoff fixtures) are preferred over cobra type light fixtures and directional floodlights.

(b) Exterior lighting of the building and site should be designed so that light is not directed off the site, and the light source is shielded from direct offsite viewing. All outdoor light fixtures should be fully shielded or be designed or provided with light angle cut-offs, so as to eliminate uplighting, spill light, and glare.

(c) Excessive illumination of signage, building, or site should be avoided. Roof lighting, down-lighting washing the building walls, and illuminated awnings are all strongly discouraged.

(d) Fixture mounting height should be appropriate for the project and the setting. The mounting height of fixtures in smaller parking lots or service areas should not exceed 20 feet, with lower mounting heights encouraged, particularly where adjacent to residential areas or other sensitive land uses. Use of low, bollard-type fixtures that are three to four feet in height, are encouraged as pedestrian area lighting.

Figure 5-3-12.1



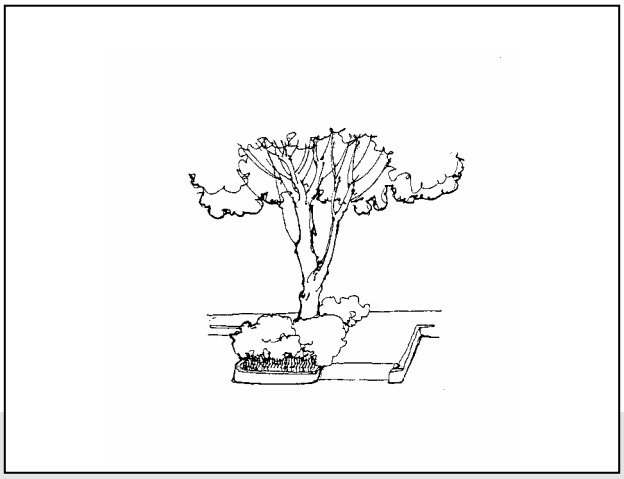
Lighting Recommendations

§5-3-13 PARKING LOT LANDSCAPING

(a) Parking lots that face a street should be partially screened from the street by a low fence, wall, hedge, berm, or vegetated buffer. If a parking lot fronts an arterial or major collector street, and is of such a size that it dominates views from the fronting arterial/collector street and detracts from the overall streetscape and community appearance, then the parking lot should be screened or buffered with vegetation in its entirety from view along the fronting roadway(s) within the required right-of-way frontage planting strip.

(b) Landscape islands containing at least one overstory tree, or two understory trees planted in each landscape island, should be provided within parking areas with 10 or more spaces and located in such a manner so as to divide and break up the expanse of parking areas (see Figure 5-3-13.1). One landscape island should be located at the end of each row of parking spaces in the interior of the parking lot. In addition, one parking lot landscape island should also be provided for every 150 linear feet of parking spaces, whether at the periphery or in the interior of the parking lot. Each landscape island should be of sufficient shape and size so that one overstory tree or two understory trees will fit within the island. No portion of an island should be less than three feet in width.

Figure 5-3-13.1
Parking Lot Landscaped Island



Source: DeChiara and Koppelman 1984.

Commentary on additional references: In addition to the references cited below, a number of local governments in Georgia have adopted design guidelines for various parts of their jurisdictions. Many local design guidelines are available via the World Wide Web. Other references with regard to urban design are listed in the master bibliography of this model code, including, but not limited to, Olshansky 1996 (hillside development), Porter 1998 (urban design), Sanders 1993 (manufactured housing), and Waters 1983 (historic preservation). For a list of planting materials appropriate to the region, there are many sources including DeChiara and Koppelman (1984). For other design-related regulations, one can also consult other modules of this model code, including Code Sections 4-4 (manufactured homes), 5-1 (small towns), and 6-2 (new commercial development).

References:

Arendt, Randall, et al. 1994. Rural by Design. Chicago: Planners Press.

Craighead, Paula M. (ed.). 1991. The Hidden Design in Land Use Ordinances: Assessing the Visual Impact of Dimensions Used for Town Planning in Maine Landscapes. Portland: University of Southern Maine.

DeChiara, Joseph, and Lee E. Koppelman. 1984. Time Saver Standards for Site Planning. New York: McGraw-Hill.

Dramstad, Wenche E., James D. Olson, and Richard T.T. Forman. 1996. Landscape Ecology Principles in Landscape Architecture and Land-Use Planning. Washington, DC: Island Press.

Forsyth County Unified Development Code. 2001. Cumming: Forsyth County Department of Planning and Development.

Stokes, Samuel N., et al. 1989. Saving America's Countryside: A Guide to Rural Conservation. Baltimore: Johns Hopkins University Press.

§5-4 HISTORIC PRESERVATION

CONTENTS

§5-4 HISTORIC PRESERVATION

Commentary: Local governments desiring to designate historic districts and properties must do so in compliance with the Georgia Historic Preservation Act of 1980. This module is written in compliance with that state law. Because historic preservation is more likely to be needed in cities than in counties due to the higher probability of concentrated historic resources in cities this module is included under Part 5 which provides land use management techniques

applicable to cities. However, counties may also choose to adopt historic preservation regulations in accordance with this module.

Commentary: Legal Counsel recommends that the notice and hearing requirements for adoption of this Resolution [Ordinance] follow all the procedures for adoption of a zoning ordinance (i.e., compliance with the Zoning Procedures Act). Since the state Historic Preservation Act specifies the procedures for considering certificates of appropriateness, those procedures do not require compliance with the Zoning Procedures Act.

§5-4-1 TITLE

This Resolution [Ordinance], fully titled "An Ordinance To Establish A historic Preservation Commission In [the jurisdiction]; To Provide For Designation Of Historic Properties Or Historic Districts; To Provide For Issuance Of Certificates Of Appropriateness; To Provide For An Appeals Procedure; To Repeal Conflicting Ordinances; And For Other Purposes," shall be known and may be cited in short title as the "Historic Preservation Ordinance."

§5-4-2 PURPOSE

This Resolution [Ordinance] is enacted to:

(a) Support and further findings and determinations that the historical, cultural, and aesthetic heritage of [the jurisdiction] is among its most valued and important assets, and that the preservation of this heritage is essential to the promotion of public health, prosperity and general welfare;

(b) Stimulate revitalization of the business districts and historic neighborhoods as well as protect and enhance local historical and aesthetic attractions to tourists, thereby promoting and stimulating business; and

(c) Enhance the opportunities for federal tax relief of property owners under relevant provisions of the Economic Recovery Tax Act of 1981, allowing tax investment credits for rehabilitation of certified historic structures (26 U.S.C.A., Section 191).

The Board of Commissioners [Mayor and Council] hereby declares it to be the purpose and intent of this Resolution [Ordinance] to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation, and use of places, districts, sites, buildings, structures,

and works of art having a special historical, cultural, or aesthetic interest or value, in accordance with the provisions of the Resolution [Ordinance].

This Resolution [Ordinance] is adopted pursuant to the requirements of O.C.G.A. Section 44-10-26 (The Georgia Historic Preservation Act - Acts 1980, pages 1723-1729).

§5-4-3 DEFINITIONS

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

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

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

Historic district: A geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as designated by the [Mayor and Council or Board of Commissioners].

Historic property: An individual structure, site, or work of art which exhibits a special historical, architectural, or environmental character as designated by the Board of Commissioners [Mayor and City Council].

Material change in appearance: A change that will affect either the exterior architectural or environmental features of a historic property or any structure, site or work of art within a historic district, and may include any one or more of the following:

(a) A reconstruction or alteration of the size, shape, or façade of a historic property, including any of its architectural elements or details;
(b) Demolition of a historic structure;
(c) Commencement of excavation for construction purposes;
(d) A change in the location of advertising visible from the public right-of-way; and,
(e) The erection, alteration, restoration, or removal of any building or other structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features.

§5-4-4 CREATION OF HISTORIC PRESERVATION COMMISSION

A Historic Preservation Commission is hereby created. The jurisdiction of the Commission shall be the unincorporated portions of _____ County [the city limits of the City of _____].

§5-4-5 COMPOSITION OF THE COMMISSION

The Historic Preservation Commission shall consist of three members appointed by the County Commission Chairman [Mayor] and ratified by the Board of Commissioners [City Council], who shall be residents of [the jurisdiction], who have demonstrated special interest, experience, or education in history, architecture, or the preservation of historic resources. Members shall serve three-year terms. Members may not serve more than two consecutive terms. In order to achieve staggered terms, initial appointments shall be; one member for one year; one member for two years; and one member for three years. Members do not receive a salary, although they may be reimbursed for expenses.

§5-4-6 POWERS OF THE COMMISSION

The Historic Preservation Commission shall be authorized to:

(a) Prepare an inventory of all property within its respective historic preservation jurisdiction having the potential for designation as historic property.

(b) Recommend to the [City Council/County Commission] specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts.

(c) Review applications for Certificates of Appropriateness, and grant or deny the same in accordance with the provisions of this Resolution [Ordinance].

(d) Recommend to the [City Council/County Commission] that the designation of any place, district, site, building, structure, or work of art as a historic property or as a historic district be revoked or removed.

(e) Restore or preserve any historic properties acquired by the [City/County].

(f) Promote the acquisition by the [City/County] of façade easements and conservation easements in accordance with the provisions of the "Façade and Conservation Easements Act of 1976" (Georgia Laws 1976, p. 1181).

(g) Conduct an educational program on historic properties located within its historic preservation jurisdiction.

(h) Make such investigations and studies of matters relating to historic preservation as the Local Governing Body or the Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.

(i) Seek out state and federal funds for historic preservation, and make recommendations to the [City/County] concerning the most appropriate uses of any funds acquired.

(j) Submit to the Historic Preservation Section of the Department of Natural Resources a list of historic properties or historic districts designated.

(k) Perform historic preservation activities as the official agency of [City/County] historic preservation program.

(l) Employ persons, if necessary, to carry out the responsibilities of the Commission.

(m) Receive donations, grants, funds, or gifts of historic property, and acquire and/or sell historic properties. The Commission shall not obligate the [City/County] without prior consent.

(n) Review and make comments to the State Historic Preservation Office concerning the nomination of properties within its jurisdiction to the National Register of Historic Places.

§5-4-7 RULES OF PROCEDURE

The Commission shall adopt rules for the transaction of its business and consideration of applications. It shall provide for the time and place of regular meetings, and for the calling of special meetings. The Commission shall have the flexibility to adopt rules of procedure without amendment to this Resolution [Ordinance]. A quorum shall consist of a majority of all members. The latest edition of Roberts' Rules of Order shall determine the order of business at all meetings. A public record shall be kept of the Commission's resolutions, proceedings, and actions.

§5-4-8 DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES

The Commission shall have the authority to compile and collect information, conduct surveys of historic resources within [the jurisdiction], and recommend districts and buildings to (City Council/County Commission) for designation as being "historic." A historical society, neighborhood association, or group of property owners may apply for historic district designation. A historical society or property owner may apply for designation as a historic property. The Commission shall present to the [City Council/County Commission] nominations for historic districts and local properties. The Commission shall prepare formal reports when nominating historic districts or local properties. These reports shall be used to educate the community and to provide a permanent record of the designation. The report will follow guidelines for nominating structures to the National Register of Historic Places (National Preservation Act of 1966), and shall consist of two parts: 1) a physical description, and 2) a description of historic significance. This report shall be submitted to the Historic Preservation Section of the Department of Natural Resources.

The boundaries of any historic district shall be specified on tax maps. Boundaries specified in legal notices required by this Resolution [Ordinance] shall coincide with the boundaries finally designated. Districts shall be shown on the official land use intensity districts map, or, in the absence of such a map, on an official map designated as a public record.

§5-4-9 CRITERIA FOR SELECTION OF HISTORIC DISTRICTS

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

(a) Have special character or special historic/aesthetic value or interest.

(b) Represent one or more periods or styles of architecture typical of one or more eras in the history of the municipality, county, state or region.

(c) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.

§5-4-10 CRITERA FOR DESIGNATION OF PROPERTIES

The Commission may recommend, 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 jurisdiction], 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.

(d) It is a place or structure associated with an event or person of historic or cultural significance to [the jurisdiction], State of Georgia, or the region.

Boundaries shall be clearly defined for individual properties on tax maps and shall also be shown on the Official Land Use Intensity Districts Map, or, in the absence of such a map, on an official map designated as a public record.

§5-4-11 PUBLIC HEARING AND NOTICE REQUIREMENTS

The Commission and the Local Governing Body shall each hold a public hearing on the proposed Resolution [Ordinance] or action to designate a historic district or property. Notice of the hearing shall be published in at least three consecutive issues in the legal organ of [the jurisdiction], and the Commission shall mail written notice of the hearing to all owners and occupants of properties included within the proposed designation. In addition, the Commission shall notify all agencies and organizations within [the jurisdiction] with an interest in historic preservation of the proposed designation, specifically including the local historical society, if any, of the proposed Resolution [Ordinance] or action. All such notices shall be published or mailed not less than 10, nor more than 20, days prior to date set for the public hearing. A letter sent via the United States mail to the last known owner of the property shall constitute legal notification under this Resolution [Ordinance].

§5-4-12 RECOMMENDATION BY COMMISSION

The Commission shall recommend acceptance or denial of any historic district or property designation within 15 days following the public hearing held by the Commission, which shall be

in the form of a resolution to the [City Council/County Commission] recommending approval or disapproval of the designation.

§5-4-13 REVIEW BY STATE OFFICE OF HISTORIC PRESERVATION

Upon the recommendation that any property or district be considered "Historic," and prior to consideration by the Local Governing Body of any Resolution [Ordinance] to officially designate such historic district or property, the Commission shall submit a report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building/structure, or work of art, to the Historic Preservation Office of the Georgia Department of Natural Resources. The Office of Historic Preservation shall have at least 30 days to prepare written comments on the proposed designation or designations.

§5-4-14 ACTION BY LOCAL GOVERNING BODY

A decision by the Local Governing Body to accept or reject the designation of any historic district or property designation shall be made within 30 days following the public hearing held by the Local Governing Body, and, if approved, it shall be in the form of a Resolution [Ordinance]. Any Resolution [Ordinance] designating any property or district as historic shall:

(a) Describe each property to be designated or refer to a map clearly showing each property;

(b) Set forth the names(s) of the owners(s) of the designated property or properties; and

(c) Require that a certificate of appropriateness be obtained from the Historic Preservation Commission prior to any material change in appearance of the designated property.

§5-4-15 NOTIFICATION FOLLOWING ORDINANCE ADOPTION

Within 30 days immediately following the adoption of an ordinance designating a historic district or property, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site, or work of art located within a designated historic district shall be given written notice of such designation which shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated.

§5-4-16 AMENDMENT TO DISTRICT AND PROPERTY DESIGNATIONS

The boundary of any district or property may be amended in conformance with the provisions of this Resolution [Ordinance] relative to public hearings and notice and in conformance with all applicable provisions of O.C.G.A. Section 44-10-26 et seq.

§5-4-17 CERTIFICATE OF APPROPRIATENESS REQUIRED

After the designation by ordinance of a historic district or property, no "material change in the appearance," of such historic property, or of a structure, site, or work of art within such historic district, as defined by this Resolution [Ordinance], or any individual property, shall be made or be permitted to be made by the owner or occupant thereof, unless or until application for a certificate of appropriateness has been submitted to and approved by the Commission. A certificate of appropriateness must be issued by the [Land Use Officer, Historic Preservation Officer, or other designated officer], after approval by the Historic Preservation Commission, prior to any material change in appearance in such district or to any property.

Commentary on the regulation of building colors: A question may arise as to whether a Historic Preservation Commission has the authority to regulate external building colors. The Georgia Historic Preservation Act of 1980 specifically excludes "exterior paint alterations" from the definition of "material change in appearance" (O.C.G.A. 44-10-22). Furthermore, the act's definition of "exterior architectural features" does not mention color, though the scope of the definition is not limited to those items specifically described in that definition. Preservation planners around the state have generally been instructed that regulation of color in historic districts is "off-limits."

It might be reasonably implied that commissions can regulate color, and that the reference to color in the definition of "material change in appearance" was meant only to exempt paint color changes from having to obtain a certificate of appropriateness when that is the only "material change" involved. However, that interpretation may be difficult to reconcile with the definition of "material change in appearance." Avoiding strong contrasts in colors seems reasonably within the scope of historic preservation that includes purposes of improving aesthetics. Consultation with legal counsel is strongly advised on this matter.

§5-4-18 PRE-APPLICATION CONFERENCE

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

§5-4-19 APPLICATION REQUIREMENTS

All applications for a certificate of appropriateness shall be made as required by the [Land Use Officer, Historic Preservation Officer, or other designated officer], and shall at a minimum contain the following information.

§5-4-19.1 Elevation Drawings, Color and Material Samples. Every application or review involving the construction of a new building or structure and alterations and/or additions to existing structures in any historic district or within a property designated as a historic property shall be accompanied by exterior elevation drawings drawn to a specified scale and signed by an architect, engineer or other appropriate professional and submitted in sufficient number of copies as required by the [Land Use Officer, Historic Preservation Officer, or other designated officer]. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed change(s) to buildings or structures and new construction, as applicable. Each application shall also indicate proposed materials, textures and colors, and provide samples of materials and colors.

§5-4-19.2 Photographs. Photographs of all sides of the affected existing building(s) or structure(s) visible from the street shall accompany all applications, as well as adjoining properties. Photographs of all sides of the building visible from the street shall accompany applications for the demolition of structures under consideration for demolition, as well as photographs showing contiguous properties. Photographs shall be submitted in printed copy

and in digital form unless otherwise specified by the [Land Use Officer, Historic Preservation Officer, or other designated officer].

§5-4-19.3 Site Plan and Landscaping Plan. For every application, a plot plan or site plan drawn to a specified scale shall be submitted which shows all improvements affecting appearances visible from the street, such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs, lights, and other elements. In the case of a building or structure demolition, the site plan and landscaping plan shall show how the foundation area will be restored.

§5-4-19.4 Fee. A fee, as may be established by the Board of Commissioners [Mayor and City Council], shall be submitted for said application.

§5-4-19.5 Additional Information. Any additional information as may reasonably be required by the [Land Use Officer, Historic Preservation Officer, or other designated officer], shall be submitted with the application.

Where, in the opinion of the [Land Use Officer, Historic Preservation Officer, or other designated officer], a requested change would be considered minor, the [Land Use Officer, Historic Preservation Officer, or other designated officer], may vary or waive any of the information requirements of this section for applications for a certificate of appropriateness.

§5-4-20 NOTICE TO ABUTTING PROPERTY OWNERS

Prior to reviewing an application for a certificate of appropriateness, the Historic Preservation Commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected materially by the application and shall give the applicant and such owners the opportunity to be heard. At a minimum, this provision shall require a written notice of the time and date of the meeting of the Historic Preservation Commission. At this time the application will be considered by all property owners as shown on the County or City tax records with property abutting the subject property, and mailed no less than 10 days preceding the date of the Commission's meeting.

§5-4-21 PUBLIC HEARING AND NOTICE

In all applications involving the demolition of a structure, provisions shall be made for a public hearing before the Historic Preservation Commission. In other cases where the Commission deems it necessary, it may hold a public hearing concerning any other application for a certificate of appropriateness. The Commission shall hear from the public, as appropriate and as directed by the Chairman, without the necessity of advertising a public hearing. In the event a public hearing is required pursuant to this section or the Historic Preservation Commission elects to conduct an advertised public hearing, notice of said public hearing shall be provided in accordance with the provisions of this section.

At least a 10-day notice of the time and place of each public hearing shall be given by the Zoning Director as follows:

(a) In writing to the applicant and abutting property owners;

(b) By publication at least once in the form of an advertisement in a newspaper of general circulation within the city; and

(c) By sign posted on the property.

§5-4-22 CRITERIA FOR ACTING ON CERTIFICATES OF APPROPRIATENESS

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

(a) Consistency with the U.S. Secretary of the Interior's "Standards of Rehabilitation."

(b) Consistency with any adopted design guidelines for historic districts or historic properties.

(c) Expert advice, if any is sought on the matter.

(d) The nature and character of the surrounding areas, and the consistency of the proposed application with such nature and character.

(e) The general design; character, and appropriateness of design; scale of buildings; arrangement, texture, materials, and colors of the structure in question; and the relation of such elements to similar features of structures in the immediate surrounding area, including site and landscaping.

(f) The Commission shall not consider interior arrangement or use as having any affect on exterior architectural features.

The following defects are among other grounds for considering a design inappropriate.

(a) Material and color.

(b) Arresting and spectacular effects.

(c) Violent contrasts of materials or colors (intense or lurid colors).

(d) A multiplicity or incongruity of details resulting in a restless and disturbing appearance.

(e) The absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

§5-4-23 ACTION BY THE COMMISSION

The Historic Preservation Commission shall approve or reject an application for a certificate of appropriateness within 45 days after the filing of a complete application. Failure of the Commission to act within the 45-day period shall constitute approval, and no other evidence of approval shall be needed. Additional time may be taken where the applicant and the Commission have made a mutual agreement for said extension.

The Historic Preservation Commission shall approve the application and direct the [Land Use Officer or other designated officer] to issue a certificate of appropriateness, if: 1) it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property or the historic district, and 2) the Commission finds the application is consistent with the criteria for judging applications for certificates of appropriateness as established in this Resolution [Ordinance].

The Historic Preservation Commission may deny an application for a certificate of appropriateness when, in the opinion of the Commission, such proposed change would be detrimental to the interests of the historic district or historic property and the public. In the event the Commission rejects an application, it shall state its reason(s) for doing so and shall transmit a record of such action and the reasons therefor, in writing, to the applicant. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application. The denial of an application for a certificate of appropriateness shall

be binding on the [Land Use Officer, Historic Preservation Officer, or other designated officer] and, in such a case of denial, no building permit shall be issued.

§5-4-24 CHANGES AFTER COMMISSION APPROVAL

No material change in the appearance of a historic property, structure, site or work of art within the historic district shall be made or permitted to be made by the owner or occupant thereof, after the issuance of a certificate of appropriateness, unless and until all requirements of this Resolution [Ordinance] are met.

§5-4-25 APPEALS

Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the Board of Commissioners [Mayor and City Council]. The appeal must be filed within 30 days of the decision of the Commission and must be made by petition delivered to the [Land Use Officer, Historic Preservation Officer, or other designated officer]. The appeal shall be on the application exactly as presented to the Commission. The appeal shall be advertised for public notice in accordance with applications for certificates of appropriateness as required by this Resolution [Ordinance]. The Board of Commissioners [Mayor and City Council] may approve, modify and approve, or reject the determination made by the Commission if it finds that the Commission abused its discretion in reaching its decision. Appeals, from decisions of the Board of Commissioners [Mayor and City Council] made pursuant to this section, may be taken to superior court of _____ County in the manner provided by law.

§5-4-26 EXCLUSION

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

§5-4-27 VARIATIONS

Where the strict application of any provision of this Resolution [Ordinance] would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, by reason of unusual circumstances, the Historic Preservation Commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions of this Resolution [Ordinance] or to interpret the meaning of this Resolution [Ordinance] to relieve such difficulty or hardship. However, such variance, modification, or interpretation shall remain in harmony with the general purpose and intent of the provisions of this Resolution [Ordinance] so that the architectural or historic integrity or character of the property shall be conserved and substantial justice done. In granting variations, the Commission may impose such reasonable and additional stipulations and conditions as will in its judgment best fulfill the purpose of this Resolution [Ordinance]. Neither financial constraints alone, nor a situation of a person's own making, shall be considered an undue hardship.

§5-4-28 ENFORCEMENT

After a certificate of appropriateness has been authorized and notification of such has been transmitted to the [Land Use Officer, Historic Preservation Officer, or other designated officer], the [Land Use Officer, Historic Preservation Officer, or other designated officer] shall from time to time inspect the construction approved by such authorization. The County [City], through the [Land Use Officer, Historic Preservation Officer, or other designated officer] or County [City] Attorney, shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in the appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this Resolution [Ordinance], or to prevent any illegal act or conduct with respect to such historic property or historic district.

§5-4-29 PENALTIES

Violation of any provision of this Resolution [Ordinance] shall be punished in the same manner as provided for the punishment of violations in § _____ of the Code of Resolution [Ordinance] for [the jurisdiction].

§ 5-4-30 INCORPORATION CLAUSE

This Resolution [Ordinance] 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 Resolution [Ordinance]. Where any provision of this Resolution [Ordinance] is in conflict with any provision of the Act, the Act shall control. Or where this Resolution [Ordinance] 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.

Commentary: In the case of this module, since state law is involved, Legal Counsel recommends that an "incorporation clause" be included just to be sure that no mandatory provision of the state statute is inadvertently omitted.

References:

In 1983, the Institute of Community and Area Development at the University of Georgia published Maintaining a Sense of Place: A Citizen's Guide to Community Conservation, by John C. Waters. That model was also reproduced in abbreviated form in Ndubisi, Forster. 1992. Planning and Implementation Tools and Techniques: A Resource Book for Local Governments. (Athens: ICAD). The model preservation ordinance written by Waters was used, along with a draft historic preservation ordinance for the City of Roswell, Georgia, to prepare this model ordinance.

§ 5-5 URBAN REDEVELOPMENT/ DOWNTOWN DEVELOPMENT

Commentary on How This Module Can Apply: Georgia's redevelopment laws provide various options for the exercise of urban redevelopment. Both cities and counties can exercise urban redevelopment through state enabling legislation called the Urban Redevelopment Law (O.C.G.A. § 36-61). Cities have an additional option through the Downtown Development Authorities Law (O.C.G.A. § 36-42) – cities can create a downtown development authority which can exercise urban redevelopment powers in city central business districts.

This module is written in a way that provides a county or city with a model ordinance for establishing an urban redevelopment agency and exercising urban redevelopment powers. Alternatively, it provides cities only with the alternative of establishing a downtown development authority to exercise urban redevelopment authority. Note that resolutions by the governing body must be adopted in advance of exercising urban redevelopment authority; the separate resolution can draw on the language presented in this module. There are options for cities, designated as (a) and (b), given in this Model Code, and the choice depends of course on whether the city chooses the Urban Redevelopment Law or the Downtown Development Authorities Law as its state enabling legislation.

For cities, which option is best? Generally, the laws provide for the same authority, though there are important differences between the two laws. Redevelopment pursuant to the downtown development authorities law is limited geographically to the central business district of cities (though city councils might take considerable liberty in defining that area), whereas the urban redevelopment law applies to both cities and counties and is not limited to the downtown central business district. The Downtown Development Authorities law also has greater specificity with regard to the composition of the authority and qualifications for membership and it requires certain reporting to the Secretary of State and the Georgia Department of Community Affairs.

It is worth noting that there is yet another state law which authorizes redevelopment – The Redevelopment Powers Law (O.C.G.A. § 36-44). That law allows for tax increment financing (referred to in the law as tax allocation districts). Because that law is complex, requires additional authority (local approval and state legislation) and is less likely to be used by the cities and counties that are the target for this Model Land Use Management Code, it is not addressed in this module.

§ 5-5-1 AUTHORITY

Cities and counties in Georgia are authorized under the Urban Redevelopment Law (O.C.G.A. § 36-61-1 and § 36-61-8) to establish urban redevelopment agencies and undertake urban redevelopment projects, subject to the various requirements of said statute, so long as the Mayor and City Council [Board of Commissioners] has adopted a resolution declaring that one or more slum conditions exist and that rehabilitation or redevelopment is necessary to protect the public health, safety and welfare of the county or city (O.C.G.A. § 36-61-5).

Commentary: A resolution declaring the need for urban redevelopment is required by the Urban Redevelopment Law. Urban redevelopment project powers are numerous. Under this law, a city or county can sell and lease property, furnish public buildings and improvements, provide assistance, issue general obligation bonds and revenue bonds, contract for federal assistance and levy taxes and assessments for public improvements (O.C.G.A. § 36-61-16).

§ 5-5-2 CREATION OF AGENCY (AUTHORITY)

An urban redevelopment agency has been created by prior resolution of the governing body.

[or]

A downtown development authority has been created by prior resolution of the Governing Body which declares the need for such an authority and establishes its jurisdiction as the central business district of the city, said resolution having been filed with the Georgia Secretary of State and the Georgia Department of Community Affairs (O.C.G.A. § 36-42-5). The downtown development authority shall have those powers pursuant to O.C.G.A. § 36-42-8 and in addition may exercise those powers given to urban redevelopment agencies under O.C.G.A. § 36-61 and O.C.G.A. § 36-44.

It is hereby declared that there is a need for urban redevelopment and an agency to administer and implement urban redevelopment activities. The Mayor and City Council [Board of Commissioners], consistent with prior resolution, designates the Mayor and City Council [Board of Commissioners] [or the _____ urban redevelopment agency] [or the _____ Housing Authority] [or, if a municipality, the Downtown Development Authority] as the urban redevelopment agency.

Commentary: The Urban Redevelopment Law (O.C.G.A. § 36-61-17) gives several institutional options for the exercise of urban redevelopment. The law automatically creates a redevelopment agency in each local jurisdiction, but it is not activated until the Governing Body adopts a resolution declaring the need for such an agency. If it wants to, the local Governing Body can itself exercise urban redevelopment powers (i.e., designate itself as the urban redevelopment agency). Alternatively, a county or city can establish a separate urban redevelopment agency or it has the option of designating a housing authority as the urban redevelopment agency. Municipalities can designate downtown development authorities as urban redevelopment agencies.

There are few known examples of the creation of urban redevelopment agencies by local governments in Georgia. The Columbus Consolidated Government has

designated its housing authority as its urban redevelopment agency. Macon-Bibb County has established a Macon-Bibb County Urban Development Authority but it derives some of its powers from a state constitutional amendment. Albany has an inner city authority which appears to have been created by special legislation and Atlanta gives such authority to its development authority which exercises authority under various different state enabling statutes and/or special state legislation.

§ 5-5-3 JURISDICTION

The jurisdiction of the urban redevelopment agency with regard to urban redevelopment shall be the city [county] limits. [or]

Commentary: Under the urban redevelopment law, in addition to the local government's own jurisdiction, an area extending five miles beyond the jurisdiction may be included in the redevelopment jurisdiction if consent from the local government(s) with jurisdiction is obtained (O.C.G.A. § 36-61-1).

The jurisdiction within which the city's downtown development authority shall exercise its authority with regard to urban redevelopment shall be the downtown development area as defined by this ordinance and as adopted by previous resolution of the governing body.

Commentary: Under the downtown development authority law, the area of development must be the city's central business district as determined by the local governing body. The law states in part that in the resolution, "the governing body shall designate as the downtown development area that geographical area within the municipal corporation which, in the judgment of the governing body, constitutes the central business district" (O.C.G.A. § 36-42-5).

§ 5-5-4 PURPOSES

This ordinance is adopted for the purpose of eliminating, restoring or redeveloping slum areas or portions thereof, first through private actions if they can be encouraged and undertaken, or if necessary through public actions pursuant to this ordinance.

Commentary: The urban redevelopment law specifically encourages voluntary (private) renovation where possible (O.C.G.A. § 36-61-6). It provides that "to the extent that is feasible, salvable slum areas should be conserved and rehabilitated through voluntary action and the regulatory process" (O.C.G.A. § 36-61-3). It further provides that local governments exercising urban redevelopment "shall afford maximum opportunity, consistent with the sound needs of the municipality or county as a whole, to the rehabilitation or redevelopment of the urban redevelopment area by private enterprise" (O.C.G.A. § 36-61-4).

Revitalization and redevelopment of central business districts by financing projects under this ordinance (adopted pursuant to O.C.G.A. § 36-42) will develop and promote the public good and general welfare, trade, commerce, industry and employment opportunities. It is, therefore, in the public interest and is vital to the public welfare of the people of the city, and it is declared to be the public purpose of this ordinance, to revitalize and redevelop the central business district of the city (O.C.G.A. § 36-42-2).

Commentary: The above paragraph is from the downtown development authorities law. If a city is exercising its redevelopment powers via a downtown development authority within a defined downtown development area, then this paragraph is appropriate to include. Furthermore, it may be appropriate with some changes, even if redevelopment is authorized under a different state enabling statute.

It is found and declared that economically and socially depressed areas exist within the city [county] and that these areas contribute to or cause unemployment, limit the tax resources of the local government while creating a greater demand for governmental services and, in general, have a deleterious effect upon the public health, safety, morals and welfare. It is, therefore, in the public interest that such areas be redeveloped to the maximum extent practicable to improve economic and social conditions therein in order to abate or eliminate such deleterious effects (O.C.G.A. § 36-44-2).

Commentary: The above language is from the "Redevelopment Powers Law" (O.C.G.A. § 36-44), which is not addressed in this module. The language, however, provides an appropriate statement of purpose that can be included in a local government ordinance exercising downtown development or urban redevelopment powers.

§ 5-5-5 DEFINITIONS

Downtown development area: A geographical area within the city corresponding to the central business district of the city, and which is designated as such by resolution of the governing body, and which may be modified by any subsequent resolution of the governing body (O.C.G.A. § 36-42-3).

Commentary: Any such resolution adopted by a municipality should be accompanied by a detailed map showing the parcels included within the downtown development area.

Slum: An area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare (O.C.G.A. § 36-61-2).

Commentary: This term is from the Urban Redevelopment Law. "Slum" is an outdated word, and local governments would probably prefer not to use this term. Furthermore, the definition may prove to be a limiting factor in terms of where urban redevelopment powers can apply. .

Urban redevelopment area: A slum area that has been designated by the governing body as appropriate for a redevelopment project (O.C.G.A. § 36-61-2) in accordance with an urban redevelopment plan.

Urban redevelopment plan: A plan adopted by the governing body that includes local objectives related to redevelopment, which conforms to the general (comprehensive) plan of the local government, and which may include a workable program. The urban redevelopment plan also must provide details on redevelopment proposals and specify

zoning changes or building rules that will be required to implement the plan. (O.C.G.A. § 36-61-2).

Commentary: An urban redevelopment plan is a clear prerequisite to acquiring land for purposes of undertaking a redevelopment project. The Governing Body must approve the urban redevelopment plan. An urban redevelopment plan does not necessarily have to be initiated and prepared by (or for) the Governing Body, however. The law authorizes private persons to prepare and submit an urban redevelopment plan (O.C.G.A. § 36-61-7).

§ 5-5-6 COMPOSITION OF DOWNTOWN DEVELOPMENT AUTHORITY

The downtown development authority of the city shall consist of a board of seven (7) directors. The governing body of the municipal corporation shall appoint two (2) members of the first board of directors for a term of two (2) years each, two (2) for a term of four (4) years each, and three (3) for a term of six (6) years each. The governing body of the municipal corporation may appoint one (1) of its elected members as a member of the downtown development authority. After expiration of the initial terms, except for the director who is also a member of the governing body of the municipal corporation, the terms of all directors shall be four (4) years for those directors appointed or reappointed on or after July 1, 1994. The term of a director who is also a member of the governing body of a municipal corporation shall end when such director is no longer a member of the governing body of the municipal corporation. If at the end of any term of office of any director a successor to such director has not been elected, the director whose term of office has expired shall continue to hold office until a successor is elected. A majority of the board of directors shall constitute a quorum (O.C.G.A. § 36-42-4).

Commentary: This provision is required if a downtown development authority is created.

§ 5-5-7 AUTHORITY MEMBER REQUIREMENTS; OFFICERS

Directors shall be: (1) Taxpayers residing in the city; (2) Owners or operators of businesses located within the downtown development area and taxpayers residing in the county in which the city is located; or (3) Persons having a combination of the qualifications specified in (1) and (2) of this paragraph; provided, however, that one of such directors may be a member of the governing body of the city.

Not less than four (4) of the directors having the qualifications specified in the preceding paragraph of this subsection shall be persons who, in the judgment of the governing body of the city, either have or represent a party who has an economic interest in the redevelopment and revitalization of the downtown development area. Successors to the directors shall be appointed by the governing body of the city.

The directors shall elect one (1) of their members as chairman and another as vice chairman and shall also elect a secretary and a treasurer or a secretary-treasurer, either of whom may, but need not, be a director. The directors shall receive no compensation for their services but shall be reimbursed for actual expenses incurred by them in the performance of their duties. Each authority shall have perpetual existence. Except for a director who is also a member of the governing body of the city, each director shall attend and complete at least eight (8) hours of training on downtown development and redevelopment programs within the first 12 months of a director's appointment to the downtown development authority.

Commentary: This provision is required if a downtown development authority is created. If the urban redevelopment agency is a housing authority, see O.C.G.A. § 8-4 for possible additional requirements.

§ 5-5-8 URBAN REDEVELOPMENT PLAN

The urban redevelopment plan, prepared by _____, for the area of the city [county] known as _____, is hereby adopted. The provisions of the plan describing the future use and building requirements applicable to the property covered by the plan shall be controlling with respect thereto.

Commentary: Under the Urban Redevelopment Law, it appears that an adopted urban development plan has a binding effect on land uses within the urban redevelopment area. The statute states that "upon the approval of an urban redevelopment plan by a municipality or county, the provisions of the plan with respect to the future use and building requirements applicable to the property covered by the plan shall be controlling with respect thereto" (O.C.G.A. § 36-61-7). Hence, the urban redevelopment plan follows the same reasoning as a "specific development plan" (see § 5-1 of this Model Code). This provision is not required for downtown development authorities, though a downtown development plan is required in order to exercise eminent domain (see later Code provision). Whether required or not, a plan for development or redevelopment is recommended.

§ 5-5-9 POWERS OF URBAN REDEVELOPMENT AGENCY LIMITED

The exercise of eminent domain, approval of the urban redevelopment plan and issuance of general obligation bonds shall not be delegated by the local Governing Body to a separate redevelopment agency.

Commentary: The powers described in this section can only be exercised by the local governing body (O.C.G.A. § 36-61-17).

§ 5-5-10(a) AGENCY EXERCISE OF EMINENT DOMAIN

Except as otherwise limited by the Urban Redevelopment Law (O.C.G.A. § 36-61), a municipality or county [or, except as otherwise limited by the Downtown Development Authorities Law (O.C.G.A. § 36-42), a city downtown development authority] shall have the right to acquire, by exercise of the power of eminent domain, any real property which it may deem necessary for its purposes under the terms of said law, after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. A municipality or county may exercise the power of eminent domain in the manner provided in Title 22; or, it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.

If the property to be acquired is not for a public use, then the local government shall adopt a resolution authorizing the exercise of the power of eminent domain. The owner of the real property proposed to be acquired via eminent domain shall be notified of the intent to acquire the property through eminent domain. The property owner shall be given the option (through an agreement with the Governing Body) of rehabilitating and maintaining the property in accordance with the adopted urban redevelopment plan. If the property owner fails to exercise that option, then the Governing Body may acquire the property through purchase or the exercise of the power of eminent domain (O.C.G.A. § 36-61-9).

Commentary: The exercise of eminent domain for purposes of redevelopment is a potentially powerful tool for reversing decline and redeveloping blighted areas. The intent of the Urban Redevelopment Law is clearly that eminent domain should be used only if private market forces are unable to revitalize an area without public intervention. In cases where the land is not to be devoted to a public use, the law is clear that private property owners must be given the option of agreeing to redevelop the property according to the adopted redevelopment plan. Hence, eminent domain should be viewed as an option of last resort.

§ 5-5-10(b) EXERCISE OF EMINENT DOMAIN BY AN AUTHORITY

Except as otherwise limited by the Downtown Development Authorities Law (O.C.G.A. § 36-42), a city downtown development authority shall have the right to acquire, by exercise of the power of eminent domain, any real property which it may deem necessary for its purposes under the terms of said law, after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. It may exercise the power of eminent domain in the manner provided in Title 22; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.

The Downtown Development Authority shall not exercise the power of eminent domain until or unless:

(a) The proposed rehabilitation of the property has been set forth in a downtown development plan adopted by the city and incorporated in the comprehensive plan of the city submitted to the Georgia Department of Community Affairs, pursuant to O.C.G.A. § 36-70.

(b) The governing body of the city has adopted a resolution approving the proposed use of eminent domain power by the downtown development authority.

(c) The downtown development authority has, in writing, notified the owner of the real property proposed to be acquired of the planned rehabilitation of the property as set forth in the downtown development plan for the downtown development area wherein the property is located.

(d) Within 30 days after being so notified, the owner of the property has been given the option of notifying the downtown development authority, in writing, of his willingness and intention to rehabilitate and maintain the property in accordance with the downtown development plan. In the event of multiple ownership of the property, unanimous agreement by the owners shall be required, and the failure of any one owner to notify the downtown development authority within the time limitations specified in this paragraph of his willingness and intention to rehabilitate and maintain the property in accordance with the downtown development plan shall be deemed to be a failure to exercise the option provided in this subsection; and

(e) The owner of such property may execute an agreement with the downtown development authority to rehabilitate the property in accordance with the downtown development plan. Any such agreement shall be as the downtown development authority deems necessary and appropriate as to form and content. In connection therewith, the downtown development authority shall have the right to require sufficient performance, payment, and completion bonds. In the event that any such owner, at any time, fails to comply with or defaults in the performance of the provisions of the agreement, such property shall no longer be subject to the agreement, the option provided by paragraph (d) of this subsection shall no longer apply, and the property may be acquired by the downtown development authority by purchase or through the exercise of the power of eminent domain. In the alternative, the downtown development authority may either specifically enforce the agreement, exercise any rights under any bonds

which may have been required, and obtain any other legal or equitable relief as may be available to the downtown development authority or, if the owner fails to exercise the option to rehabilitate the property or defaults on the agreement to rehabilitate the property, the downtown development authority may implement those portions of the downtown development plan with respect to such property to the extent the authority deems necessary and the costs of implementing such plan shall be a lien against the property enforceable in the same manner as a lien for taxes (O.C.G.A. § 36-42-8.1).

Commentary on the Sale or Disposition of Redevelopment Property. The city or county may retain such property or interest for public use, in accordance with the urban redevelopment plan. Some local governments will condemn property and then sell it to a private developer. Under the terms of the Urban Redevelopment Law (O.C.G.A. § 36-61-10), the city or county may sell, lease or otherwise transfer real property in an urban redevelopment area or any interest therein acquired by it and may enter into contracts with respect thereto, for residential, recreational, commercial, industrial or other uses or for public uses. If the city [county] sells property in the urban redevelopment area, the property acquired shall not be sold for less than the fair value of the property for uses in accordance with the redevelopment plan. Furthermore, real property shall be disposed of to private persons only after completing reasonable competitive bidding procedures.

§ 5-5-11 LEVYING OF TAXES, FEES OR ASSESSMENTS

Pursuant to Article IX, Section II, Paragraph VI of the Constitution of the State of Georgia, municipalities may create one or more special districts within the area of operation of a downtown development authority for the purpose of levying and collecting taxes, fees or assessments to pay the cost of any project or to support the exercise of any other powers which the authority may possess (O.C.G.A. § 36-42-16).

Commentary: The above provision applies to downtown development authorities.

6-1 LAND USE INTENSITY DISTRICTS AND MAP

CONTENTS

Commentary: Most of the regulations contained in this model code are designed to provide alternatives to a zoning district and map approach. This module is basically a zoning ordinance but does not use the word "zoning." Instead, it calls the districts "land use intensity" districts. This module is intended to provide a rather simple model of zoning that could fit a small city or a rural county. Since it has been written for both, it will require modifications as noted in other commentary provided along with this module. Several other modules can be adopted with this module, and some such as administration and enforcement (2.0), procedures (7.1), and appeals (7.2) are considered essential to the functioning of this module.

§6-1 LAND USE INTENSITY DISTRICTS AND MAP

§6-1-1 TITLE

This title shall be known and may be cited as the Land Use Intensity District Resolution [Ordinance] of the County [City] of _____.

§6-1-2 DEFINITIONS

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. Unless otherwise expressly stated, the following words shall have the meaning herein indicated.

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.
Accessory building: A building subordinate to the principal building or use on a lot and used for purposes incidental to the principal building or use and located on the same lot therewith.

Commentary: It is possible for a building to actually be considered accessory to the principal use on the lot, even if there is no other building. For instance, a stone yard that takes up most of a lot would be considered the principal use, while a small office building or storage shed on the site would be considered accessory to the primary use which is to display and sell stones.

Accessory use: A use of the land or building or portion thereof customarily incidental and subordinate to the principal use and located on the same lot with such principal use.
Agriculture: The commercial cultivation or growth from or on the land of horticultural, floricultural, forestry, dairy, livestock, poultry, and apiarian products.
Apartment building: A building designed for or occupied exclusively by three or more households with separate housekeeping facilities for each household.
Assisted living facility: Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self - administered medication. They may provide other services incidental to the above. For purposes of this ordinance, assisted living facilities are considered institutionalized residential living and care facilities.

Automobile sales and service establishment: New and used car, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and service, including mobile and manufactured home and modular building sales, and agricultural implement and equipment. This definition includes automotive services such as rental car facilities, top and body, paint, automotive glass, transmission, and tire repair shops, car washes, including automated and staffed facilities, and oil change and lubrication facilities.

Bed and breakfast inn: A facility where overnight accommodations are provided to transients for compensation, with or without a morning meal, and where the operators of the facility live on the premises.

Berm: An earthen mound or embankment, usually two to six feet in height, designed to provide visual interest, screen views, reduce noise, or fulfill other such purposes.

Boarding house: A building, where for compensation, both lodging and meals are provided for not more than 10 persons, providing that a single-family dwelling shall not be deemed to be a boarding house by reason of a contribution to or expense sharing arrangement with the owner or tenant occupying the dwelling by a person related by blood or marriage.

Buffer: A natural or enhanced vegetated area usually intended to screen and separate incompatible uses.

Buildable area: The portion of a lot which is not located within any minimum required yard, landscape strip/area or buffer; that portion of a lot wherein a building or structure may be located.

Building, height of: The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable or hip roof. Grade is defined as the average elevation of the ground on all sides of a building.

Building, principal: A building in which is conducted the principal use of the lot on which said building is situated.

Building setback line: A line establishing the minimum allowable distance between the main or front wall of a principal building and the street right-of-way line or another building wall and a side or rear property line when measured perpendicularly thereto. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into any required yards. For purposes of this Resolution [Ordinance], a building setback line and minimum required yard shall be considered the same.

Business service establishment: A facility engaged in support functions to establishments operating for a profit on a fee or contract basis, including, but not limited to: advertising

agencies, photocopying, blueprinting and duplication services, mailing agencies, commercial art and graphic design, personnel supply services and employment agencies, computer and data processing services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, publications and business consulting firms, food catering, interior decorating, and locksmiths.

Church: A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services. Associated accessory uses include, but are not limited to: schools, meeting halls, indoor and outdoor recreational facilities, day care, counseling, homeless shelters, and kitchens.

Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons. A clinic allows lodging and care in cases of medical necessity.

Club, nonprofit: A building or premises used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Representative organizations include Elks, Veterans of Foreign Wars, and Lions. The term shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Commercial recreational facility, indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including, but not limited to the following: assembly halls, auditoriums, meeting halls, art galleries and museums, billiard halls and pool rooms, amusement halls, video arcades, ice and roller skating rinks, fully-enclosed theaters, physical fitness centers and health clubs.

Commercial recreational facility, outdoor: A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, including, but not limited to the following: stadiums, amphitheaters, circuses and carnivals, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, race tracks for animals or motor-driven vehicles, unenclosed firearms shooting ranges and turkey shoots, trout ponds, equestrian centers and horse and pony riding rinks, botanical and zoological gardens, recreational vehicle parks, ultra-light flight parks, and bungi jumping. A golf course and private club that is built as part of a single-family residential subdivision and that operates in a quasi-public manner is not considered to be an outdoor commercial recreational facility.

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict; with regard to buildings, harmony in appearance of architectural features in the same vicinity.

Conditional use: A use that would not be appropriate, generally or without restriction, throughout the particular use district and is not automatically permitted by right within a use district; but which, if controlled as to number, area, location or relation to the neighborhood, may be found to be compatible and approved by the Governing Body within a particular use district as provided in certain instances by this Resolution [Ordinance].

Contractor's establishment: An establishment engaged in the provision of construction activities, including, but not limited to, plumbing, electrical work, building, grading, paving, roofing, carpentry, landscaping, and other such activities, including the storage of material and the overnight parking of commercial vehicles.

Curb cut: The providing of vehicular ingress and/or egress between property and an abutting public street.

Day care center: Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia as a group day care home or day care center, for fewer than 24 hours per day, wherein seven or more children under 18 years of age are received for a fee for group supervision and care.

Density: The permitted number of dwelling units per gross acre of land to be developed.

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

Drive-through: A retail or service enterprise wherein service is provided or goods are sold to the customer within a motor vehicle and outside of a principal building.

Dwelling: A building, other than a mobile home, manufactured home, or house trailer, designed, arranged or used for permanent living and/or sleeping quarters.

Dwelling, single-family: A building designed or arranged to be occupied by only one family or household.

Dwelling, two-family (duplex): A building designed or arranged to be occupied by two families or households living independently of each other.

Dwelling, multi-family: A building designed for or occupied exclusively by three or more families or households with separate housekeeping facilities for each family.

Dwelling unit: A building, or portion thereof, designed, arranged and used for living quarters for one or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

Family: An individual; or two or more persons related by blood, marriage, or guardianship, limited to the occupant, his or her spouse, and their parents and children; or a group of not more than five persons, excluding servants, who need not be related by blood, marriage, or guardianship, living together in a dwelling unit as a family or household.

Family day care home: A private residence in which a business is operated by any person who receives therein for pay, three to not more than six children under 18 years of age who are not residents in the same private residence for supervision and care for fewer than 24 hours per day. For purposes of this Resolution [Ordinance], a family day care home may be operated as a home occupation, subject to the requirements of this Resolution [Ordinance].

Fence: An enclosure or barrier, composed of wood, masonry, stone, wire, iron, or other materials or combination of materials used as a boundary, means of protection, privacy screening, or confinement, including brick or concrete walls but not including hedges, shrubs, trees, or other natural growth.

Fence, solid: A fence, including entrance and exit gates where access openings appear, through which no visual images can be seen.

Finance, insurance, and real estate establishment: Such uses include, but are not limited to banks, savings and loan institutions and credit unions, security and commodity exchanges, insurance agents, brokers, and service, real estate brokers, agents, managers, and developers, trusts, and holding and investment companies.

Governing body: The Board of Commissioners of _____County [Mayor and City Council of the City of _____].

Guesthouse: A lodging unit for temporary guests in an accessory building. No such lodging unit shall contain independent cooking or kitchen facilities, and no guesthouse shall be rented or otherwise used as a separate dwelling.

Health Service: Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen and miscellaneous types of medical supplies and services; and offices of doctors, dentists and other medical practitioners.

Health spa: An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise. The term

includes establishments designated as “reducing salons,” “exercise gyms,” “health studios,” “health clubs,” and other terms of similar import. Not included within this definition are facilities operated by nonprofit organizations, facilities wholly owned and operated by a licensed physician at which such physician is engaged in the practice of medicine, or any establishment operated by a health care facility, hospital, intermediate care facility, or skilled nursing care facility.

Home Occupation: an occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of the residence as a dwelling and which does not change the residential character thereof, and is conducted in a manner as to not give any outward appearance of a business in the ordinary meaning of the term. This occupation does not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential use district was created and primarily intended.

Impervious surface: A man-made structure or surface, which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

Institutional residential living and care facilities: An umbrella term that encompasses the following uses as specifically defined in this Resolution [Ordinance]: assisted living facility, intermediate care home, nursing home, and personal care home.

Intermediate care home: A facility which admits residents on medical referral; it maintains the services and facilities for institutional care and has a satisfactory agreement with a physician and dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the Georgia Department of Human Resources. The term "intermediate care" means the provision of food, including special diets when required, shelter, laundry and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate licensed supervision. Intermediate care does not normally include providing care for bed patients except on an emergency or temporary basis.

Intrafamily land transfer: A subdivision within an AG land use intensity district that creates at least one additional lot but not more than four additional lots, where each and every lot within the subdivision is conveyed for love and affection to the children, spouse and children, surviving heirs, in-laws, or immediate relatives of the property owner, or some combination thereof; provided further, that no more than one lot in the subdivision shall be deeded to any one individual. This definition shall not include or authorize any land subdivision that involves or will involve the

creation of lots for sale or otherwise involves a property transfer for money, tangible or intangible personal property, real property exchanges, or other conveyances for consideration.

Kennel: Any facility used for the purpose of commercial boarding or sale of animals (excluding horses, swine, goats, and geese) or pets and any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise.

Landfill, inert waste: A disposal facility accepting only wastes that will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rock, bricks, yard trimmings, stumps, limbs, and leaves, and specifically excluding industrial and demolition waste.

Loading space: Loading and unloading space is a space, typically with dimensions of twelve feet by sixty feet, logically and conveniently located for pickups and/or deliveries or for loading and/or unloading in such a way as it does not conflict with driveways or patron parking, scaled to the delivery vehicles to be used, and accessible to such vehicles.

Lodging service: A facility that offers temporary shelter accommodations, or place for such shelter, open to the public for a fee, including, but not limited to inns, hotels, motels, and motor hotels. Bed and breakfast inns are not considered to be lodging services.

Lot: A parcel of land occupied or capable of being occupied by a use, building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same, which is described in a deed or shown on a plat and lawfully recorded in the office of the Superior Court of _____ County.

Lot area, minimum: Minimum lot area means the smallest permitted total horizontal area within the lot lines of a lot, exclusive of street right-of-ways but inclusive of easements.

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot coverage, maximum: The percentage of a given lot that may be occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings and structures on the lot.

Lot, double frontage: Any lot, other than a corner lot, which has frontage on two streets.

Lot frontage: The width in linear feet of a lot where it abuts the right-of-way of any street.

Lot line, front: The front property line coincident with a street right-of-way line.

Lot of record: A lot which is part of a subdivision, a plat of which has been recorded in the records of the Clerk of Superior Court of _____ County; or a parcel of land, the deed of which has been recorded in the same office as of the effective date of this Resolution [Ordinance].

Lot width: The distance between side lot lines measured at the front building line.

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Manufactured home park: Any property on which three or more manufactured homes are located or intended to be located for purposes of residential occupancy.

Manufacturing: Manufacturing means the converting of raw, unfinished materials or products, or any or either of them, into an article or articles or substance of a different character, or for use for a different character, or for use as a different purpose.

Mini-warehouse: A structure or group of structures containing separate spaces/stalls that are leased or rented on an individual basis for the storage of goods.

Mobile Home: A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; and which has not been inspected and approved as meeting the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Nonconforming building or structure: A building or structure that does not meet one or more setbacks for the land use intensity district in which said building or structure is located; a building or structure that exceeds the maximum lot coverage for the land use intensity district in which said building or structure is located; or, a principal building or accessory structure that otherwise does not comply with dimensional requirements established by this Resolution [Ordinance] for the particular principal building or accessory structure, or for the use district in which the nonconforming building or structure is located.

Nonconforming lot: A lot which does not conform to the lot requirements of the land use intensity district in which the lot is located as established by this Resolution [Ordinance], but which was a lot of record prior to the effective date of this ordinance or its amendment.

Nonconforming use: Any building or use of land or building lawfully existing on or before the effective date of this Resolution [Ordinance] or as a result of subsequent amendments to this ordinance, which does not conform with the use provisions of the use district in which it is located.

Nursing home: A facility that admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will also be responsible for the general medical and dental supervision of the home; and, complies with rules and regulations of the Georgia Department of Human Resources.

Office: A building, or portion thereof, wherein predominantly administrative, professional, or clerical operations are performed, and does not involve retail sales.

Open-air business: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides; including, but not limited to rock yards, nurseries and garden supply stores, lumber and building materials yards, flea markets, statuaries and monument sales establishments, Christmas tree lots and firewood sales lots, and liquid petroleum dealers and tank sales. A produce stand is not considered to be an open-air business.

Parking space: An area having dimensions of not less than 300 square feet, including driveway and maneuvering area, to be used as a temporary storage space for a private motor vehicle.

Personal care home: Any dwelling operated for profit or not that through its ownership or management undertakes to provide, or arrange for the provision of, housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. Personal care tasks include assistance with bathing, toileting, grooming, and shaving, dental care, dressing, and eating.

Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including, but not limited to barber and beauty shops, coin-operated and full service laundries and dry cleaners, photographic studios, shoe repair and shoeshine shops, dance studios, schools and halls, and travel agencies.

Public use: Any building, structure, or use owned and/or operated by the Federal government, State of Georgia, County, City, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, post offices, police and fire stations, libraries and publicly operated museums, public health facilities and public hospitals, public works camps,

parks and community centers, public roads and streets, airports, water and sanitary sewerage intake, collection, pumping, treatment, and storage facilities, emergency medical facilities, and jails and correctional facilities.

Recycling center, processing: Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including, but not limited to, plastics, glass, paper, and aluminum materials.

Research laboratory: A facility for scientific laboratory research in technology-intensive fields, including, but not limited to biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities, computer software, information systems, communication systems, transportation, geographic information systems, and multi-media and video technology. Also included in this definition are facilities devoted to the analysis of natural resources, medical resources, and manufactured materials including: environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products; and, forensic laboratories for analysis of evidence in support of law enforcement agencies.

Retail trade establishment, enclosed: Any business offering goods and products for sale to the public, which may include the incidental repair of such goods and products, that operates entirely within a structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. These include, but are not limited to the following: convenience stores including the sale of gasoline; hardware, paint, glass and wallpaper stores; grocery and miscellaneous food stores including retail bakeries; apparel, shoe, and accessory clothing stores; furniture, upholstery, floor covering, household appliance and home furnishing stores; musical instrument stores; radio, television, and computer stores; record, tape, and compact disc stores; eating and drinking places not involving drive-in or drive-through facilities; drug stores, apothecaries and proprietary stores; liquor stores and bottle shops; used merchandise stores and pawn shops; sporting goods stores and bicycle shops; art and stationery stores; hobby, toy, and game shops; jewelry, gift, novelty, souvenir and antique shops; camera and photographic supply stores; luggage and leather goods stores; sewing, needlework, and piece goods stores; catalogue and mail order stores; news stands, florists, tobacco shops; automotive parts stores not involving repair; video rental and sales stores; and, watch and clock sales and repair shops.

Roadside stand: A use offering either farm-grown prepared food products such as fruits, vegetables, canned foods, or similar agricultural products for sale on the premises or within a temporary structure on the premises with no space for customers within the structure itself.

Screening: A method of visually shielding or obscuring one abutting or nearby building, structure, or use from another by fencing, walls, berms, densely planted vegetation, or some combination thereof.

Semi-public use: Any building, structure, or use owned and/or operated by private utilities or private companies for a public purpose, or that is reasonably necessary for the furnishing of adequate service by such utilities, such as, but not limited to the following: underground and overhead gas, electric, steam, or water distribution or transmission lines or systems, including incidental wires, cables, and poles, but not towers.

Street: A dedicated and accepted public right-of-way that affords the principal means of access to abutting properties.

Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.

Townhouse: One of a group of three or more attached dwelling units under fee-simple ownership.

Truck Terminal: A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

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

Warehouse: Storage of materials, equipment, or products within a building for manufacturing use or for distribution to wholesalers or retailers.

Wholesale trade establishment: An establishment engaged in the selling or distribution of merchandise to retailers; industrial, commercial, institutional or professional business users; or other wholesalers.

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

Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot.

Yard, side: An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

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

Zero lot line: The location of a building on a lot in such a manner that one or more building sides have no (zero) side or rear building setback (or yard requirements) and rests directly on a side or rear lot line. A zero lot line development is one where houses in the development on a common street frontage are shifted to one side of their lot.

§6-1-3 ESTABLISHMENT OF LAND USE INTENSITY DISTRICTS

§6-1-3.1 Purpose and Establishment. The land use intensity districts established in this Resolution [Ordinance] are intended to: promote the orderly future development of the county [city] in accordance with the Comprehensive Plan; discourage the size and type of development that would create excessive requirements and costs for public services; discourage uses which because of their size or type would generate an abnormal amount of traffic on minor streets; establish relationships between and among land uses that will ensure compatibility and maintain quality of life; and protect and promote suitable environments for residences, institutions, commercial and other employment centers, and other uses. The following use districts are hereby established:

(a) Agricultural District (AG)
(b) Rural Residential District (RR)
(c) Suburban Residential District (SR)
(d) Urban Residential District (UR)
(e) Office Residential District (OR)
(f) Neighborhood Commercial District (NC)
(g) Highway Business District (HB)
(h) Central Business District (CBD)
(i) Light Industrial District (LI)

Commentary: This model land use intensity district ordinance uses the term "land use intensity district" to avoid use of the term "zoning." It is designed to apply to both rural counties and small cities; however, some of the districts are appropriate only in small cities, while others are appropriate only in rural unincorporated areas. The table below provides recommendations for the applicability of land use intensity districts. All of the districts are potentially applicable in small

cities, with the exception of the AG district. An ordinance for a rural county might have as few as four or five districts: AG, RR, NC (perhaps), HB, and LI.

LAND USE INTENSITY DISTRICT	*APPLICABLE TO SMALL CITIES?*	*APPLICABLE TO RURAL COUNTIES?*
Agricultural District (AG)	*Unlikely, not written for small cities*	*Yes*
Rural Residential District (RR)	*Maybe*	*Yes*
Suburban Residential District (SR)	*Yes, if public water is available*	*Only in areas served by public water*
Urban Residential District (UR)	*Yes if public water and sewer is available*	*No*
Office Residential District (OR)	*Yes*	*No*
Neighborhood Commercial District (NC)	*Yes*	*Maybe*
Highway Business District (HB)	*Yes*	*Yes*
Central Business District (CBD)	*Yes, for downtowns*	*No*
Light Industrial District (LI)	*Yes*	*Yes*

§6-1-4 OFFICIAL LAND USE INTENSITY DISTRICTS MAP

§6-1-4.1 Map. The boundaries of land use intensity districts created by this Resolution [Ordinance] are hereby established as shown on a map entitled "Official Land Use Intensity Map, _____ County [City] of _____, Georgia," which is incorporated into this Resolution [Ordinance] by reference. Said map and all explanatory matter thereon accompanies and is hereby made a part of this Resolution [Ordinance]. Upon adoption of this Resolution [Ordinance], the said map shall be signed by the clerk of the county [city] with certification that the map was duly adopted by the county [city] and the date of adoption. It shall be displayed for public view in the Land Use Officer's office at all times.

§6-1-4.2 Map Amendment. If, in accordance with the provisions of this Resolution [Ordinance], changes are made in the district boundaries or other subject matter portrayed on the official land use intensity districts map, such changes shall be made on the official land use intensity district map promptly after the amendment has been approved by the Governing Body.

§6-1-4.3 Use District of Vacated Right-Of-Ways. Whenever any street, alley or other public way is vacated or abandoned by official action of the Governing Body, the use district adjoining each side of such street, alley, or public way shall be automatically extended to the center of same.

§6-1-5 RULES GOVERNING BOUNDARIES

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

§6-1-5.1 Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines or such lines extended, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.

§6-1-5.2 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

§6-1-5.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets or highways, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the official land use intensity districts map. If no distance is given, such dimension shall be determined by the use of the scale shown on said official land use intensity districts map.

§6-1-6 LAND USE INTENSITY DISTRICTS

§6-1-6.1 Agricultural District (AG).

(a) Purpose and intent. Located within _____ County are several areas that contain soils highly suitable for the cultivation of agricultural crops and forests. Land in the agricultural district constitutes a valuable natural resource, and protection is in the public's interest. Agriculture and forestry are major components of the county's economy, and they remain viable economic enterprises if that land is held in relatively large tracts (40 acres to hundreds of acres).

The continuation of agriculture and forestry as viable land uses and components of the local economy, is threatened by rural residential, suburban, and urban land uses, and land subdivision. When land is divided into smaller tracts, it becomes

less suitable for agriculture and forestry production because the assembly of enough acreage for a farm of minimum efficient size becomes difficult. Smaller tracts generally sell for a higher price per acre, and subdivision of large agricultural or forest tracts generally results in the increase of per-acre land values. The availability of smaller tracts at lower cost attracts exurban and suburban residential and non-farm buyers into the market, thereby increasing adjacent land values for residential uses and decreasing land values for agricultural and forest uses. The cumulative impact of the subdivision of farm and forest lands into small lots increases the level of conflict between farmers/foresters and non-farmers, makes farming more difficult, and eventually leads to dissolution of the agricultural and forest economy.

Therefore, pursuant to the many goals, objectives, policies, and recommendations of the Comprehensive Plan for the county, an agricultural land use intensity district is hereby established for the purposes of maintaining the agricultural and forest land resources in a form amenable to the continuation of agriculture; restricting the division of farmland so that it does not become broken up into small parcels, thereby avoiding the accelerated conversion of land to residential uses, and discouraging the shift of the land market from agricultural and rural, to suburban and urban.

These districts are most appropriately located in areas shown as agriculture/forestry on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, “Permitted and Conditional Uses by Land Use Intensity District.”

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, “Dimensional Requirements by Land Use Intensity District.”

(d) Intrafamily land transfers. An intrafamily land transfer, as defined by this Resolution [Ordinance], is permitted within the AG district, subject to the following requirements:

(1) Subdivision plat. A final subdivision plat shall be prepared in accordance with the provisions of this Resolution [Ordinance] and submitted for administrative approval by the Land Use Officer. The name of each grantee shall be shown on each lot within the subdivision.

(2) Lot specifications. Each lot shall be at least one acre but no more than two acres in size. Each lot shall have a minimum lot width of 200 square feet. No lot created by a subdivision plat for an intrafamily land transfer shall be further subdivided except in conformity with the requirements of this Resolution [Ordinance].

(3) Deeds and Affidavits. Simultaneously with the submittal of the final plat, the applicant shall submit property transfer deeds to grantees, which shall be intrafamily members and which shall be recorded simultaneously with the recording of the final plat. The Land Use Officer shall review said deeds to ensure they are being granted to persons consistent with the requirements of this Resolution [Ordinance] for intrafamily land transfers. Any inconsistency with these regulations shall be cause for denying the application for final subdivision plat for an intrafamily land transfer. No intrafamily land transfer shall take place which involves the conveyance of a lot to a person that has already received a property transfer deed as grantee for property created by a previously approved subdivision plat for an intrafamily land transfer. An affidavit, signed by all Grantors and Grantees in a form approved by the Land Use Officer, stating that no consideration for the transfer of the property shall pass other than love and affection, shall be filed with the Land Use Officer.

Commentary: The AG district, as written, allows single-family dwellings and manufactured homes outright when they are clearly incidental to farm/agricultural uses. It restricts the subdivision of land to lots with 10 acres or more for reasons explained in the purpose statement. This district does allow "intrafamily land transfers" (see section above and definition), which allows an exception of sorts to the 10 acre lot size, but only for transfers for love and affection to family/relatives. Singling out intrafamily transfers may not provide equal protection to non-family members (who would have more or less the same land use impacts), and thus, raises some legal issues. However, it is believed that exempting or providing special treatment of intrafamily land transfers is a common practice in rural Georgia. It is a tool that may gain political acceptance of an agricultural preservation restriction (i.e., a 10-acre minimum lot size) that might otherwise be considered too restrictive to county elected officials.

§6-1-6.2 Rural Residential District (RR).

(a) Purpose and intent. RR districts are intended to provide for low-density residential areas consisting of detached single-family dwellings surrounded by yards that provide a desirable and healthy environment. RR districts are not served by sanitary sewer or by public water supply. The RR district establishes a minimum lot size of one unit per two acres but also establishes a maximum gross density to enable conservation subdivisions as an alternative to conventional rural residential subdivision patterns. Because RR districts are served by on-site sewage management systems, maximum density is based generally on public health requirements that lots must be large enough to accommodate a septic tank drain field and replacement drain field area. These districts are most appropriately located in areas shown as single-family residential [rural residential] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.3 Suburban Residential District (SR).

(a) Purpose and intent. SR districts are intended to provide for moderate density residential areas consisting of detached single-family dwellings surrounded by yards that provide a desirable and healthy environment. SR districts are not served by sanitary sewer, but have a public water supply available. The SR district establishes a minimum lot size of 30,000 square feet per dwelling but also establishes a maximum gross density to enable conservation subdivisions as an alternative to conventional suburban residential subdivision patterns. These districts are most appropriately located in areas shown as single-family residential [suburban residential] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.4 Urban Residential District (UR).

(a) Purpose and intent. UR districts are intended to provide for urban density residential areas consisting of detached single-family dwellings surrounded by yards that provide a desirable and healthy environment. UR districts are served by sanitary sewer and public water supply. The UR district establishes a minimum lot size of 10,000 square feet per dwelling. These districts are most appropriately located in areas shown as urban residential [residential] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.5 Office Residential District (OR).

(a) Purpose and intent. These districts are appropriate in transitional areas between commercial or industrial districts and residential districts. OR districts are intended to provide for low intensity, small-scale offices that do not exceed 5,000 square feet of gross floor area devoted to offices on an individual site. Development is intended to be of an intensity, scale, and character similar to nearby residential development to promote compatibility with the surrounding area. OR districts are particularly appropriate for properties that front collector or arterial streets on the fringe of stable residential neighborhoods. Development within OR districts is expected to have roof-pitches and architectural treatments similar to detached single-family residences, parking areas in proportion to single-family residential uses, and site development features that ensure a coexistence with the adjacent quiet residential living environment. These districts are most appropriately located in transitional areas adjacent to residential

neighborhoods and in areas shown as office on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.6 Neighborhood Commercial District (NC).

(a) Purpose and intent. The neighborhood commercial district is intended to provide suitable areas for the retailing of goods and the provision of services to adjacent and nearby residential neighborhoods. Most of the uses permitted in this district are not auto-oriented in nature, and the overall character of neighborhood commercial districts is such that access by both vehicles and pedestrians are possible. These districts are most appropriately located in areas shown as neighborhood commercial [commercial] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.7 Highway Business District (HB).

(a) Purpose and intent. The highway business district is intended to provide suitable areas for those business and commercial uses which primarily serve the public travelling by automobile and which benefit from direct access to major streets. HB districts provide the automobile precedence over the pedestrian. Generally, highway commercial districts are considered unsuitable abutting single-family residential districts because of the uses permitted in the district and their associated off-site impacts. These districts are most appropriately located in areas shown as highway business [commercial] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.8 Central Business District (CBD).

(a) Purpose and intent. The central business district is intended primarily to apply to the area within the city's downtown that contains commercial storefront area and related uses within a compact business district. This district is distinguished from other commercial land use intensity districts in that greater building lot coverage is permitted and no minimum front, side, or rear yards are required. Permitted uses are those that contribute to a pedestrian-friendly central business district that maintain the character of the city's downtown. Automobile-related facilities and services are not appropriate to this character and are therefore not permitted in this district. These districts are most appropriately located in areas shown as central business district [commercial] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

§6-1-6.9 Light Industrial District (LI).

(a) Purpose and intent. The purposes of these districts are to provide and reserve suitable areas for a variety of industrial uses including manufacturing, wholesale trade, and distribution activities. LI districts are only intended to be located in areas with relatively level topography, adequate water and sewerage facilities, and access to arterial streets and highways. LI districts may be appropriate at the single lot level of development; however, LI-type uses are encouraged to locate in planned industrial parks where possible. Vehicular activities in light industrial districts consist predominantly of trucks, with some passenger vehicle traffic, and the road system is built to support truck traffic. The industries locating in this district are characterized as lower in intensity, cleaner, and generally more compatible when located adjacent to commercial areas than are heavy manufacturing uses. Light industrial districts are intended to permit only those light industrial and other uses that will not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation and other nuisance characteristics. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as odors, vibrations, emissions, or other nuisance characteristics through prevention or mitigation devices and conduct of operations within the confines of buildings. Heavy commercial activities and open storage businesses are also included as permitted uses in these districts; however, light industrial districts do not service the general public and, therefore, business uses are generally not permitted. Heavier industrial activities may be permitted if approved as a conditional use. These districts are most appropriately located in areas shown as light industrial [industrial] on the future land use map of the Comprehensive Plan.

(b) Permitted and conditional uses. Permitted and conditional uses shall be as provided in Table 6-1-6.1.1, "Permitted and Conditional Uses by Land Use Intensity District."

(c) Dimensional requirements. Dimensional requirements shall be as provided in Table 6-1-6.1.2, "Dimensional Requirements by Land Use Intensity District."

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Accessory uses and structures not otherwise listed in this table, normally incidental to one or more permitted principal uses	P	P	P	P	P	P	P	P	P
Active recreational facilities, nonprofit, such as tennis courts and swimming pools, as principal uses	P	P	P	P	P	P	P	P	P
Active recreational facilities, nonprofit, such as tennis courts and swimming pools, as accessory to one or more permitted uses	P	P	P	P	P	P	P	P	P
Adult businesses	X	X	X	X	X	X	X	C	X
Agricultural experiment stations	P	X	X	X	X	X	X	X	X
Agricultural production of field crops, fruits, nuts, and vegetables	P	P	P	X	X	X	X	X	X
Animal hospitals and veterinary clinics	C	X	X	X	P	P	P	P	X
Animal rendering plants	X	X	X	X	X	X	X	X	C
Assembly of products	X	X	X	X	X	X	X	X	P
Asphalt plants	X	X	X	X	X	X	X	X	C
Auction facilities for agricultural products	C	X	X	X	X	X	P	P	X
Automobile sales and service establishments	X	X	X	X	X	X	P	C	X
Bed and breakfast inns	C	C	X	X	P	P	P	P	X
Boarding and rooming houses	X	X	X	X	P	P	P	P	X
Boarding homes for agricultural workers	C	X	X	X	X	X	X	X	X
Bottling and canning plants	X	X	X	X	X	X	X	X	P
Breweries and distilleries	X	X	X	X	X	X	X	X	P
Business service establishments, not exceeding 2,500 square feet of gross floor area	X	X	X	X	P	P	P	P	P
Business service establishments of more than 2,500 square feet of gross floor area	X	X	X	X	X	X	P	P	P
Campgrounds	C	X	X	X	X	X	P	X	X

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District (Cont'd)

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Cement manufacturers	X	X	X	X	X	X	X	X	P
Cemeteries	P	P	P	P	P	P	P	P	P
Ceramic production facilities	X	X	X	X	X	X	X	X	C
Churches, temples, synagogues, and places of worship, including cemeteries as accessory uses	P	P	C	C	P	P	P	P	P
Club or lodge, nonprofit	P	P	X	X	P	P	P	P	X
Coating of cans, coils, fabrics, vinyl, metal, furniture, appliance surfaces, wire, paper, and flat wood paneling	X	X	X	X	X	X	X	X	C
Cold storage plants and frozen food lockers	X	X	X	X	X	X	X	X	P
Colleges and universities	X	X	X	X	X	C	P	P	X
Commercial recreational facility, indoor	X	X	X	X	X	P	P	P	P
Commercial recreational facility, outdoor	X	X	X	X	X	X	C	C	X
Conference centers and retreat centers	C	X	X	X	X	P	P	P	P
Conservation areas and passive recreational facilities	P	P	P	P	P	P	P	P	P
Contractor's establishments	X	X	X	X	X	X	P	X	P
Country clubs, including golf courses and clubhouses including restaurants and golf pro shops as accessory uses	P	P	P	P	P	P	P	P	P
Dairies	P	X	X	X	X	X	X	X	X
Day care centers serving no more than seventeen persons	X	X	X	X	P	P	P	P	P
Day care centers serving eighteen or more persons	X	X	X	X	C	P	P	P	P
Distribution of products and merchandise	X	X	X	X	X	X	X	X	P
Dry cleaning plants	X	X	X	X	X	X	X	X	P
Dwellings, single-family detached	X	P	P	P	P	P	P	P	X

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District (Cont'd)

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Dwellings, single-family detached and manufactured homes, within an intrafamily land transfer as provided in Section ____.	P	X	X	X	X	X	X	X	X
Dwellings, single-family attached (townhouses)	X	X	X	X	P	P	P	P	X
Dwellings, two-family (duplexes)	X	X	C	C	P	P	P	P	X
Dwellings, multi-family (apartments and condominiums)	X	X	X	X	C	C	P	P	X
Dwellings, located within a building containing another principal use	X	X	X	X	P	P	P	P	P
Dwellings, single-family detached, including manufactured homes, which are farm related and subordinate to the principal use of the property for agricultural uses	P	P	X	X	X	X	X	X	X
Explosives storage	X	X	X	X	X	X	X	X	C
Exterminating and pest control businesses and disinfecting services	X	X	X	X	X	X	P	P	P
Extraction industries – extraction and removal of sand, gravel, top soil, clay, dirt, precious metals, gems, and minerals	C	X	X	X	X	X	X	X	P
Family day care home in single-family detached dwellings	P	P	P	P	P	P	P	P	X
Feed, grain, and fertilizer manufacturers	X	X	X	X	X	X	X	X	C
Fiberglass insulation manufacturers	X	X	X	X	X	X	X	X	P
Finance, insurance and real estate establishments, less than 2,500 square feet of gross floor area per establishment	X	X	X	X	P	P	P	P	X
Finance, insurance and real estate establishments with 2,500 or more square feet of gross floor area per establishment	X	X	X	X	C	P	P	P	X
Food processing plants, including fish and poultry facilities	X	X	X	X	X	X	X	X	C

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District (Cont'd)

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Forest uses associated with production, management and harvesting of timber	P	X	X	X	X	X	X	X	X
Fuel oil distributors and petroleum bulk storage sites	X	X	X	X	X	X	C	X	P
Funeral homes and mortuaries	X	X	X	X	C	C	P	P	X
Gardens, non-commercial, as accessory to residential use	P	P	P	P	P	P	P	P	X
Greenhouses, non-commercial, as accessory to residential use	P	P	C	X	P	X	X	X	X
Guest houses	P	P	P	P	P	P	P	P	X
Hazardous waste receiving, handling, and disposal facilities	X	X	X	X	X	X	X	X	C
Health services, including clinics and hospitals	X	X	X	X	C	C	P	P	X
Health spas	X	X	X	X	X	C	P	P	X
Hog farms	C	X	X	X	X	X	X	X	X
Home occupations	P	P	P	P	P	P	P	P	X
Horse stables, non-commercial, as accessory to residential use	P	P	X	X	X	X	X	X	X
Ice manufacturing	X	X	X	X	X	X	X	X	P
Incinerators, including medical wastes	X	X	X	X	X	X	X	X	C
Institutional residential living and care facilities, serving seventeen or less persons	X	C	X	X	P	P	P	P	X
Institutional residential living and care facilities, serving eighteen or more persons	X	X	X	X	C	C	P	P	X
Junkyards, wrecked motor vehicle compounds, and wrecker services	X	X	X	X	X	X	C	X	P
Landfills, inert waste	C	X	X	X	X	X	X	X	C
Landfills, sanitary	C	X	X	X	X	X	X	X	C
Livestock raising, not including poultry and hogs	P	X	X	X	X	X	X	X	X

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District (Cont'd)

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Lodging services	X	X	X	X	X	X	P	P	X
Manufactured homes	P	P	P	P	X	X	X	X	X
Manufacturing, processing, recycling, and assembling of chemicals, floor coverings, glass, and rubber, unless more specifically listed in this table	X	X	X	X	X	X	X	X	P
Manufacturing, processing, recycling, and assembling within buildings, not otherwise specified in this table	X	X	X	X	X	X	X	X	C
Metal products manufacturing	X	X	X	X	X	X	X	X	P
Mini-warehouses and self storage facilities	X	X	X	X	X	X	P	X	P
Mobile homes	X	X	X	X	X	X	X	X	X
Nurseries and greenhouses: wholesale and retail sale of trees, plants, and shrubs	C	X	X	X	X	X	P	P	X
Offices	X	X	X	X	P	P	P	P	P
Open air businesses and unenclosed retail trade establishments	X	X	X	X	X	X	P	P	X
Open storage yards as principal uses	X	X	X	X	X	X	P	C	P
Parking lots and decks, off-site, as principal uses	X	X	X	X	X	X	P	P	P
Personal service establishments	X	X	X	X	X	P	P	P	X
Poultry houses	C	X	X	X	X	X	X	X	X
Public and semi-public uses	P	P	P	P	P	P	P	P	P
Pulp mills	X	X	X	X	X	X	X	X	C
Recycling centers, collection points	P	P	X	X	P	P	P	P	P
Recycling centers, processing	X	X	X	X	X	X	X	X	P
Research, scientific, and testing laboratories	C	X	X	X	X	X	P	P	P
Restaurants, including outside seating areas but not including drive-ins or drive-through facilities	X	X	X	X	X	P	P	P	P
Restaurants, including drive-ins or drive-through facilities	X	X	X	X	X	X	P	P	X

Table 6-1-6.1.1

Permitted and Conditional Uses by Land Use Intensity District (Cont'd)

The following table shows uses that are permitted (P), conditionally permitted (C), and not permitted (prohibited) (X).

USE DESCRIPTION	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Retail trade establishments, enclosed, not exceeding 2,500 square feet of gross floor area	X	X	X	X	X	P	P	P	X
Retail trade establishments, enclosed, exceeding 2,500 square feet of gross floor area	X	X	X	X	X	C	P	P	X
Roadside stands	P	X	X	X	X	X	X	X	X
Schools for dance, martial arts, and other disciplines operated for profit or nonprofit	X	X	X	X	X	P	P	P	P
Schools, private elementary, middle, and high	P	P	P	P	P	P	P	P	P
Schools, trade and technical	X	X	X	X	X	X	P	P	P
Service and fuel filling stations	X	X	X	X	X	P	P	P	P
Solid waste transfer stations	C	X	X	X	X	X	X	X	P
Solvent metal cleaning	X	X	X	X	X	X	X	X	C
Stock yards and slaughterhouses	X	X	X	X	X	X	X	X	C
Temporary structures and uses approved by the Land Use Officer	P	P	P	P	P	P	P	P	P
Textile manufacturing and processing	X	X	X	X	X	X	X	X	P
Tire retreading and recapping facilities	X	X	X	X	X	X	C	X	P
Truck terminals	X	X	X	X	X	X	C	X	P
Volatile organic liquid handling and storage	X	X	X	X	X	X	X	X	C
Warehouses and storage buildings	X	X	X	X	X	X	X	X	P
Wholesale trade establishments	X	X	X	X	X	X	X	X	P
Wineries	P	X	X	X	X	X	X	X	P
Wood products manufacturing	X	X	X	X	X	X	X	X	P
Uses not specified in this table	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

(1) In cases where a use is proposed but is not listed in this table, the Land Use Officer shall make an administrative determination as to whether or not the use is permitted in the land use intensity district or districts in question. The Land Use Officer may determine that such use is substantially similar to a permitted use and allow that use to be permitted. The Land Use Officer may determine that such use is substantially similar to a conditional use, and permit that use as a conditional use. The Land Use Officer may determine that such use is prohibited altogether in the use district or districts in question. In

making such determinations, the Land Use Officer shall consult the purpose and intent statements of the land use intensity district or districts in question, in addition to comparing the use in question to uses specifically listed in this table.

Table 6-1-6.1.2

Dimensional Requirements by Land Use Intensity District

DIMENSIONAL REQUIREMENT	AG	RR	SR	UR	OR	NC	HB	CBD	LI
Minimum lot area to rezone to the district (acres)	NA	1	NA	NA	0.5	0.5	NA	NA	1
Maximum height (feet)	40	35	35	35	35	40	40	50	50
Maximum density (units per acre)	NA (1)	1	2	4	5	5	5	10	NA
Minimum lot size (square feet except as shown)	10 acres (1)	43,560	30,000	10,000	10,000	10,000	10,000	10,000	NA
Minimum lot width (feet)	200	140	100	70	70	100	100	25	200
Minimum front yard setback from major street right-of-way (feet)	60	50	40	30	20	20	30	None	75
Minimum front yard setback from minor street right-of-way (feet)	40	40	30	25	20	10	20	None	50
Minimum side setback, interior lot line (feet)	25	20	15	10	10	10	10	None	50
Minimum rear setback (feet)	40	30	20	15	10	10	25	None	50
Minimum setback when abutting an RR, SR, UR, or OR district	None	None	None	None	35	40	50	35	75
Minimum width of natural buffer abutting an RR, SR, UR, or OR district	None	None	None	None	25	30	40	25	60
Minimum landscape strip required along right-of-ways for any nonresidential use (width in feet)	None	None	None	None	20	10	20	None	20
Minimum landscape strip required along side property lines for any nonresidential use (width in feet)	None	None	None	None	10	10	10	None	None
Maximum lot coverage (percent)	20	20	25	25	25	25	30	None	40
Minimum landscaped open space (percent)	None	None	None	None	25	20	20	None	20

NA = Not Applicable

(1) Within an AG district, the minimum lot size for any subdivision of land except those allowed for an intrafamily land transfer shall be 10 acres per lot. Lot sizes for lots within intrafamily land transfers shall be subject to the provisions of Section 6-1-6.1.

§6-1-7 GENERAL PROVISIONS

§6-1-7.1 Use. No building, structure, land, or water shall hereafter be used or occupied, and no building or structure or part hereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with the regulations of this Resolution [Ordinance] or amendments thereto, including the use provisions for the use district in which it is located. Except as otherwise provided for in this Resolution [Ordinance] pursuant to interpretation of the Land Use Officer, any use not specifically permitted in a use district shall be prohibited in that district.

§6-1-7.2 Height. No building or structure shall hereafter be erected or altered so as to exceed the height limits as may be generally established by this Resolution [Ordinance] for different types of buildings and structures, and as provided for the use district in which the property is located. The height limitations of this Resolution [Ordinance] shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, or public utility facilities.

§6-1-7.3 Maximum Density, Minimum Lot Size, and Minimum Lot Width. No lot shall hereafter be developed with a number of housing units that exceeds the residential density for the use district in which the lot is located as established by this Resolution [Ordinance]. No lot shall hereafter be developed that fails to meet the minimum lot size and minimum lot width for the use district in which the lot is located as established by this Resolution [Ordinance], except as otherwise specifically provided.

§6-1-7.4 Minimum Required Yards and Building Setbacks. No building shall hereafter be erected in a manner to have narrower or smaller rear yards, front yards, or side yards than specified for the use district in which the property is located, or for the specific use if yards and setback regulations pertain to a specific use in this Resolution [Ordinance]. No lot shall be reduced in size, and no principal building shall hereafter be constructed, so that the front, side, or rear yards required by the use district in which said lot and building are located are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose. No part of a yard shall be included as a part of the yard required for another building. As established by this Resolution [Ordinance], the application of buffer requirements supersede these minimum required yards.

§6-1-7.5 One Principal Building on a Lot. Only one principal building and its customary accessory buildings may hereafter be erected on any lot, unless this Resolution [Ordinance] specifically provides otherwise; further provided, that more than one multi-family dwelling, office, institutional, commercial, or industrial building may be located on a lot or tract.

§6-1-7.6 Coverage Requirements. No lot shall hereafter be developed to exceed the maximum lot coverage specified for the use district in which it is located. No lot shall be developed with less than the minimum landscaped open space specified for the use district in which said lot is located.

§6-1-7.7 Buffer and Landscape Strip Requirements. No lot shall hereafter be developed with less than the minimum buffers and landscape strips specified for the land use intensity district in which said lot is located.

§6-1-7.8 Visibility at Intersections and Driveway Entrances. At the intersection of public streets, at the intersection of any vehicular access drive with a public street, and at the intersection of any vehicular access drive with another vehicular access drive, no plant, structure, fence, wall, sign or other element shall be placed or maintained in a manner that obstructs vision.

§6-1-8 NONCONFORMING SITUATIONS

§6-1-8.1 Nonconforming Lots. A lot of record, as defined by this Resolution [Ordinance], that does not conform to the minimum lot size or minimum lot width for the use district in which it is located or a specific lot size requirement of this Resolution [Ordinance] may be used as a building site, provided that the access, height, buffer, setback, and other dimensional requirements of the use district in which the lot of record is located are complied with and, provided further, that the lot meets all the current standards and requirements of the _____ County Health Department.

§6-1-8.2 Expansion of Nonconforming Buildings and Structures. A non-conforming building or structure, as defined by this Resolution [Ordinance], may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use that conforms to the requirements for the use district in which the building or structure is located. Any such expansion,

enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, bulk, and other dimensional requirements for the use district in which said non-conforming building or structure is located.

§6-1-8.3 Nonconforming Uses. A use of land, building, or structure which, at the time of the enactment or amendment of this Resolution [Ordinance], does not comply with the provisions for the use district in which it is located as defined in this Resolution [Ordinance] as a nonconforming use, may be continued even though such use does not conform with the use provisions of the district in which said use is located. except that the use of a principal nonconforming building, structure or land shall not be:

(a) Changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged;

(b) Re-established after discontinuance for one year. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision. If a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed in excess of six months, said lapse of business registration shall constitute discontinuance;

(c) Expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the use district in which said use is located; or,

(d) Rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of damage as determined by the building official, except for a use that conforms with the use district in which said use is located, and provided such rebuilding, alteration or repair is completed within one year of such damage.

It shall be the responsibility of the owner of a nonconforming use to prove to the Land Use Officer that such use was lawfully established and existed on the effective date of adoption or amendment of this Resolution [Ordinance].

§6-1-9 PARKING AND LOADING

§6-1-9.1 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 use districts, except as otherwise specifically exempted by this Resolution [Ordinance]. Required parking spaces shall be available for the parking of operable passenger vehicles for residents, customers, patrons, and employees, as appropriate given the subject use.

§6-1-9.2 Location of Off-Street Parking Areas. All parking spaces required by this Resolution [Ordinance] shall be provided on the same lot with the main building or use that it serves. Upon demonstration that the parking spaces required are not available and cannot reasonably be provided on the same lot as the building, structure or use it serves, the Land Use Officer may permit the required parking spaces to be provided on any lot, of which a substantial portion is within 400 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.

§6-1-9.3 Parking Plan Required. Before any building or land use permit is issued, the proposed parking lot layout and area must be found by the Land Use Officer to be in compliance with all requirements of this Resolution [Ordinance]. A parking plan, for all but detached single-family uses, shall be submitted for approval by the Land Use Officer. Occupancy of the land or use of a building shall not occur until the Land Use Officer determines that parking facilities are available in accordance with the approved plan.

§6-1-9.4 Minimum Number of Parking Spaces Required. On each lot where a building, structure, or use exists, off-street parking shall be provided according to Table 6-1-9.4.1. No existing facility used for off-street parking shall be reduced in capacity to less than the minimum required number of spaces, or altered in design or function to less than the minimum standards.

Table 6-1-9.4.1

Minimum Number of Off-Street Parking Spaces Required

Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
COMMERCIAL USES	
Art gallery	One per 400 square feet
Auto parts store	One per 400 square feet plus one per employee
Automobile sales	One per employee, plus one per 150 square feet of repair space, plus one per 600 square feet of showroom
Automobile service and repair	Two per service bay
Bank, credit union, savings and loan	One per 300 square feet (also see stacking requirements for drive-through facilities)
Barber shop or beauty parlor	One and one-half per operator's chair, plus one per employee
Bed and breakfast inn	Two for the owner-operator plus one per guest bedroom
Billiard hall/amusement arcade	One per 200 square feet
Bowling alley	Two for each alley, plus one per each employee
Convenience store	One per 250 square feet plus one per employee
Dance hall or school	One space per 150 square feet
Funeral home or mortuary	One per four seats, plus one per two employees, plus one for each hearse, ambulance, or company vehicle
Furniture, carpet, appliance and home furnishing store	One per 1,000 square feet plus one per employee and one per delivery truck
Grocery or food store	One per 200 square feet
Hardware store	One per 400 square feet plus one per employee
Health or fitness club	Ten plus one per each 250 square feet over 1000 square feet
Hotel or motel	One per guest room, plus one per employee, plus one per specified requirements for restaurants and meeting rooms as applicable
Kennel	One per 400 square feet, plus one per employee
Laundromat	One per each two washer/dryer combinations
Nursery or greenhouse	One per 1000 square feet devoted to sales
Office	One per 300 square feet
Photographic studio	One per 400 square feet
Restaurant, bar, or tavern	One per 100 square feet
Self storage facility (mini-warehouse)	One per facility manager, plus one per each forty storage units, with two spaces total minimum
Service station	One per two employees plus three for each service bay
Shopping center	Four and one-half spaces per 1000 square feet
Theater, cinema	One per three fixed seats
Veterinarian, animal hospital	Four per practitioner

Table 6-1-9.4.1 (Cont'd)

Minimum Number of Off-Street Parking Spaces Required

INDUSTRIAL USES	
Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
Manufacturing, processing, assembling	Two per three employees
Warehouse	One per two employees or one per 1,500 square feet, whichever is greater
Wholesale merchandise	One per 2,000 square feet
INSTITUTIONAL USES	
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity
Day care center	One per employee, plus one per eight children, plus one space for each vehicle associated with facility
Government office	One per 300 square feet
Hospital	One per four beds, plus one per two employees
Library or museum	One per 300 square feet
Nursing home	One per three patient beds
Post office	One per 200 square feet
School – elementary	One per employee plus one additional per 10 employees
School – middle	One per ten students or one per five seats in auditorium or main assembly area, whichever is greater
RESIDENTIAL USES	
Apartment, one bedroom	One per unit
Apartment, two bedroom	One and one-half per unit
Apartment, three bedroom	Two per unit
Boarding or rooming house	One space for each two guest rooms, plus one additional space for the owners, if resident on the premises
Residence within building containing a non-residential use	One per unit
Single-family detached or attached (including manufactured home)	Two per unit
Two family dwelling	Two per unit

Table 6-1-9.4.1 (Cont'd)

Minimum Number of Off-Street Parking Spaces Required

RECREATIONAL USES	
Use	Parking Spaces Required (Per Gross Floor Area Devoted to the Use, or Per Employee on Largest Shift, Except as Otherwise Specified)
Amusement park	Per parking generation study funded by applicant and approved by the Director
Assembly hall or auditorium	One per four fixed seats, or one per 150 square feet of seating area, whichever is less
Basketball court	Five per court
Billiard hall	Two per table
Community center	One per 250 square feet
Country club	One per 400 square feet of gross floor area. Plus one and one-half per hole for golf course, two per tennis court, and one per 100 square feet of surface for swimming pools
Golf course	Three per hole
Golf driving range, principal use	One for every tee
Miniature golf	Two per hole
Skating rink	One per 250 square feet
Stadium or sport arena	One per twelve feet of bench seating
Swimming pool – subdivision amenity	One per 150 square feet of surface water area
Swimming pool – public	One per 100 square feet of surface water area
Tennis or racquet ball court	Three spaces per court

§6-1-9.5 Interpretations of Parking Requirements. 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. Where the parking requirement for a particular use is not described in this article, and where no similar use is listed, the Land Use Officer 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, the total square footage, potential customer use, and other expected demand and traffic generated by the proposed use.

§6-1-9.6 Reduction of Required Parking 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 Land Use Officer 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 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.

§6-1-10 LOADING

§6-1-10.1 Off-Street Loading Areas Required for Specified Uses. 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, market, 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 parking areas.

§6-1-10.2 Loading Area Specifications. Unless otherwise approved by the Land Use Officer, loading spaces shall be a minimum of 14 feet wide, 40 feet long, with 14 feet of height clearance. Said loading area 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.

§6-1-10.3 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 non-industrial 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 of gross floor area or fractional part thereof for retail or other non-industrial use.

§6-2 INTERCHANGE AREA DEVELOPMENT

CONTENTS

§6-2 INTERCHANGE AREA DEVELOPMENT

Applicability: There are several instances in Georgia where portions of counties are ripe for land use regulations, but the remainder of the county is too slow-growing to justify being subjected to a comprehensive, conventional zoning ordinance. Therefore, partial zoning schemes have great potential for applications in rural Georgia counties (see also commentary under Section 5-1 of this model code). This module presents a set of development regulations for a highway interchange area that can be adopted as a stand-alone ordinance with the addition of just a few other provisions from the model code. It is based on an interchange overlay zone model ordinance prepared by the Clearwater Conservancy for municipalities in

Centre County, Pennsylvania. However, the interchange area development ordinance presented in this module is not a partial zoning scheme per se, because it does not regulate the uses of land within the jurisdiction. Rather, this ordinance is best considered a set of development regulations that apply to a limited area within a local jurisdiction.

Commentary on adapting this module to corridors. Local governments that have development issues within highway "corridors" rather than at interchanges can easily adapt this ordinance to fit their needs. To apply this module to corridors instead of interchange areas, the definitions provided and the illustration of interchange area boundary would no longer be needed. A simple definition of corridor could be added, such as "any parcel of land located wholly or partially within 500 feet of either side of the right-of-way of U.S. Highway ___ [State Route __]." The applicability section (6-2-5) would also need to be amended to refer to the definition of corridor rather than interchange area.

Legal Commentary: Legal Counsel recommends that, although this is not a zoning ordinance, for safety, it should be adopted in accordance with the Zoning Procedures Act.

§6-2-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Interchange Area Development Resolution [Ordinance] of _____ County [City of _____]."

§6-2-2 FINDINGS

Interstate highway interchanges and the areas that surround them are magnets for development. Traditionally, lands near interchanges on limited access highways generate stronger development interest and command high prices. These lands tend to be developed quickly for high revenue producing activities. In some cases, developers attempt to maximize return on investment with little consideration to the long-term impact of their development on the surrounding community.

The Board of Commissioners [Mayor and City Council] finds that the interchange area(s) subject to regulation by this Resolution [Ordinance] has specific development pressures and unique conditions that are not found elsewhere in the County [City]. These unique conditions of greater

traffic counts and more intensive development pressures justify regulation in a specific area of the County [City] that would not be justifiable in other areas of the County [City], due to the absence of such conditions.

§6-2-3 PURPOSE AND INTENT

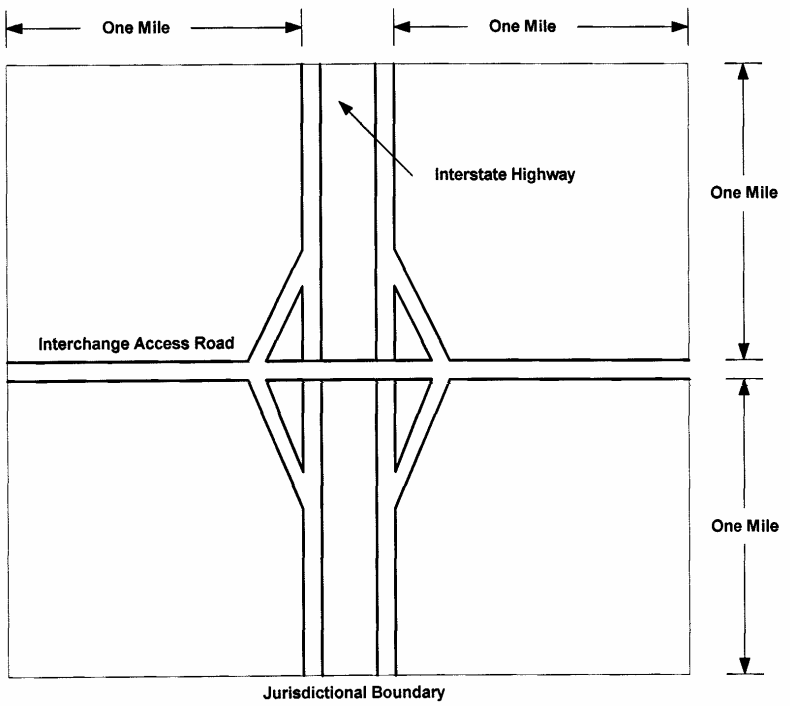
The purpose of this Resolution [Ordinance] is to encourage managed, sensible interchange development by providing protective measures that promote safety, minimize the impact to the natural environment, and promote highway beautification. This Resolution [Ordinance] is intended to ensure that new development will be compatible with respect to signage, lighting, screening, and access points. It is not meant to recommend or dictate specific land uses within the area regulated. Rather, it is intended to ensure that, if development does occur within the area, it will meet a minimum set of standards. This Resolution [Ordinance] is also intended to help developments within the interchange area maintain their initial appeal by protecting them from potential adjacent substandard development.

§6-2-4 DEFINITIONS

Interchange access road: The highest order road serving an interchange and providing access to the Interstate Highway.

Interchange area: An area, consisting of slightly more than four square miles, generally forming a two-mile by two-mile square around the center of an interstate highway interchange. Specifically, the interchange area extends one mile from the outer right-of-way boundary of the interstate highway and the interchange access road, as defined (see Figure 6-2-4.1).

Figure 6-2-4.1



Interchange Area Boundary

Setback: The minimum distance by which any building or improvement must be separated from a right-of-way boundary.

Sign: A presentation of letters, numbers, figures, pictures, emblems, insignia, lines or colors, or any combination thereof displayed for the purpose of information, direction or identification or to advertise or promote a business service, activity, interest or product or any otherwise lawful non-commercial use.

§6-2-5 APPLICABILITY

This Resolution [Ordinance] shall apply within the interchange area boundary, as defined by this Resolution [Ordinance], surrounding the intersection of Interstate Highway __ and Georgia State Route ___ [or county or city road name].

§6-2-6 SITE PLAN APPROVAL REQUIRED

No land use permit or building permit shall be issued by the Land Use Officer for a building, structure, or manufactured home within the interchange area boundary defined by this Resolution [Ordinance], unless the land use or building conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance].

§6-2-7 HIGHWAY ACCESS AND SAFETY

§6-2-7.1 Purpose. Over time, if not carefully thought through, numerous entryways can contribute to difficult turning situations and often times lead to unsafe conditions. It is therefore the intent of this section to limit the number of access points that are permitted onto the Interchange Access Road. These controlled access points will enable more careful design of turning movements, resulting in safer conditions.

§6-2-7.2 Access From Highways. Prior to submission to the County [City] for review, all plans for vehicular access to new development from the Interchange Access Road shall be submitted to and approved by Georgia DOT if a state route, or the County [City] engineer if a County [City] road. Any new right-of-way providing vehicular access from the Interchange Access Road shall be located a minimum distance of 250 feet from the point at which the exit/entrance ramp intersects the Interchange Access Road, and shall be no closer to any other such right-of-way than 800 feet, measured from centerline to centerline.

§6-2-8 BUFFER AND SETBACKS

§6-2-8.1 Buffer Along Interstate Highway. All developments shall maintain a 100-foot natural, undisturbed buffer, replanted where sparsely vegetated, between the interstate highway right-of-way and any land development.

§6-2-8.2 Setback Along Interchange Access Road. All developments shall maintain a 75-foot building and building and development improvement setback, including parking areas, from the right-of-way of the Interchange Access Road. The intent of this setback is to maintain an adequate area if the road is widened, and to maintain a landscaped frontage until such time as road widening is needed.

§6-2-9 LANDSCAPING AND TREE REQUIREMENTS

§6-2-9.1 Landscaping Plan. A landscape plan showing all landscaping required under this section for any development within the interstate area boundary shall be required to be approved by the Land Use Officer. No occupancy of any development shall take place until the landscaping has been installed in accordance with the approved landscaping plan. Landscaping shall be maintained permanently by the lot owner, and any plant material that does not live shall be replaced within one year.

§6-2-9.2 Tree Requirement. All lots abutting the Interchange Access Road shall provide a minimum of one tree for each 40 linear feet of road frontage. All trees required shall be located within the last 30 feet of the setback, to avoid their destruction if the interchange access road is widened in the future. All required trees planted within the setback shall be of a shade-type variety with a minimum caliper of two and one-half inches at planting and an expected height at maturity of at least 30 feet.

§6-2-9.3 Parking Lot Landscaping. Interiors of parking lots shall contain at a minimum the equivalent of one tree for every 10 parking spaces. Planting islands within parking areas shall be no less than 160 square feet per tree at a minimum width of five feet (excluding curb), and shall be underlain by a minimum of two feet of suitable planting soil free of construction debris. All required trees planted within a parking lot shall be of a shade-type variety with a minimum caliper of two and one-half inches at planting and an expected height at maturity of at least 30 feet. Trees may be clustered or grouped with the approval of the Land Use Officer. Parking lots shall be landscaped such that at least 15 percent of the total parking area is covered by tree canopy within 10 years after construction of the parking lot.

§6-2-9.4 Screening. Parking lots and service and loading zones shall be screened from the view as seen from the interstate highway or interchange access road with landscaping, walls, fences, hedges, shrubbery and/or earthen berms that are a minimum of four feet in height measured from finished grade.

§6-2-10 ARCHITECTURE AND UTILITIES

§6-2-10.1 Purpose. The standards provided here will provide a consistency to the development character thereby enabling the long-term preservation of property values and the promotion of economic development. All proposed development to be located within the interchange area boundary shall meet the requirements of this subsection.

§6-2-10.2 Building Materials. To the maximum extent possible, proposed buildings shall utilize natural building materials, such as wood, stone, and brick on building exteriors, except that roofing materials may be man-made. Steel or other metals shall not be used on building exteriors, except as may be necessary for roofing, window trim, gutters, and downspouts. Unpainted concrete block, except when textured or tinted, shall not be used on building exteriors.

§6-2-10.3 Accessory Uses. Trash receptacles, mechanical equipment, outdoor storage, loading docks, and other accessory uses should be located or screened in such a manner as to be hidden from view of the interstate highway and interchange access road.

§6-2-10.4 Utilities. All utility lines serving uses proposed or developed within the interchange area boundary, including electric, telephone, data, and CATV, shall be installed underground, except for single-family dwellings constructed on lots subdivided prior to the effective date of this Resolution [Ordinance], and agricultural uses. Junction boxes, transformers, and other structures essential to utility service which, due to their function, are required to be located above-ground, shall be screened from view of public rights-of-way.

§6-2-11 SIGNS

§6-2-11.1 Purpose. The intention of this subsection is to enable the County [City] to avoid the distracting clutter that too often come with new development.

§6-2-11.2 Regulations. All signs proposed, installed, or replaced within the interchange area boundary after the effective date of this Resolution [Ordinance] shall conform to the standards set forth herein.

(a) The total sign area of all signage on any one lot shall not exceed 200 square feet. A double-faced sign shall be considered a single sign. However, signage designed for pedestrian viewing only, such as under canopy signage or small directional signs, shall not be included in calculating the maximum allowable sign area per lot.

(b) No more than one ground pole sign shall be permitted on any lot. Such signs shall not exceed 20 feet in height and shall not have a maximum sign area greater than 32 square feet.

(c) Roof signs shall not be permitted.

(d) The main supporting structure of all signs shall be set back at least 15 feet from the edge of the right-of-way of the interchange access road. The main supporting structure of sign along the interstate highway shall be set back at least 25 feet from the edge of the interstate right-of-way.

(e) No flashing, blinking, fluctuating, or otherwise changing light source may be permitted, with the exception of signs providing time and temperature.

§6-2-12 EXTERIOR LIGHTING

§6-2-12.1 Purpose. The intention of this subsection is to enable the County [City] to avoid the distracting glare that too often comes with new development.

§6-2-12.2 Cut-Off Fixtures. All outdoor lighting fixtures, including without limitation, ground, pole, and building-mounted fixtures and canopy lighting shall be of a design and type containing shields, reflectors, fracture panels or recessed light sources such that the cutoff angle is 90 degrees or less. For purposes herein, the cutoff angle is that angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is permitted.

§6-2-12.3 Height. Lighting fixtures shall have a maximum height of 25 feet, except that lighting used for outdoor recreational use shall not exceed 80 feet in height.

§6-2-13 STREAM AND WETLAND BUFFERS

All improvements or land disturbances within the interchange area boundary shall be set back at least 100 feet from the top of any stream bank or edge of any wetland. All existing vegetation within the setback required by this subsection shall be preserved.

§6-2-14 ADMINISTRATION AND VARIANCES

This Resolution [Ordinance] shall be administered and enforced by the Land Use Officer. The Board of Appeals, as established in Section 7-2 of this code, may upon application by the property owner consider and grant variances to the strict requirements set forth in this Resolution [Ordinance] to alleviate undue hardship that may be created by unusual physical or topographic conditions of a site, thus providing reasonable relief.

§6-3 DEVELOPMENT AGREEMENT

CONTENTS

§6-3 DEVELOPMENT AGREEMENT

<u>Description and purpose.</u> This tool is a negotiated agreement between a local government and a developer. It usually involves large-scale development that will be phased and constructed over a long period of time. A development agreement is sought by a developer to bring certainty to the local regulations that will govern the development over time. In exchange for agreeing to "lock in" the development regulations for a given development over time, the local government may receive agreement from the developer to install infrastructure or take other actions that further the public interest (Schiffman 1999).

This module provides a local Resolution [Ordinance] authorizing development agreements. It contains substantial detail for what constitutes a development agreement, and the content of this model Resolution [Ordinance] can be used to draft development agreements applicable to specific

property. The local government can then adopt (after a public hearing) the development agreement with a simple Resolution [Ordinance]. Since there is no State-enabling legislation in Georgia authorizing local governments to enter into development agreements, local governments that wish to implement this tool should use a three-step sequence: (1) adopt a general Resolution [Ordinance] governing development agreements (i.e., this model code section); (2) negotiate a development agreement for a specific property upon application by the property owner; and (3) adopt the negotiated agreement by Resolution [Ordinance].

Example application. The State of California's laws specifically authorize local governments to enter into development agreements, as a legislative act approved by Resolution [Ordinance]. In Hawaii, development agreements are considered administrative acts (Schiffman 1999). Development agreements indicate the uses that will be permitted, the bulk, intensity and dimensional requirements (height, setbacks, etc.), the time period of the agreement, and provisions for review and termination of the agreement (Schiffman 1999). At least nine (9) states have enacted legislation that enables development agreements between developers and local governments: Arizona, California, Florida, Hawaii, Louisiana, Nevada, New Jersey, and (to a limited extent) Colorado and Minnesota (Taub 1990).

Legal Commentary: One school of thought would contend that local governments may not "contract away the police power," particularly in the context of zoning decisions. Stated another way, government cannot bind itself to not exercise its police powers. It can thus be considered to be against public policy to permit the bargaining of zoning and subdivision regulations for agreements and stipulations on the part of developers to do or refrain from doing certain things. Arguably, a development agreement in concept violates the "reserved powers doctrine" (Callies and Tappendorf 2001).

However, the dominant legal view is that development agreements, drafted to reserve some governmental control over the agreements, do not contract away the police power; but, rather, constitute a valid present exercise of that power. The Nebraska Supreme Court has preferred to characterize development agreements as a form of conditional zoning that actually increases the city's police power, rather than lessening it, by permitting more restrictive land use regulations (attaching conditions through agreement) than a simple rezoning to a district in which a variety of uses would be permitted of right. Also, a recent California appeals court squarely upheld a

development agreement that was challenged directly on "surrender of police power" grounds (Callies and Tappendorf 2001).

Commentary by Legal Counsel: Legal Counsel questions whether this module would be legal in Georgia and casts doubt on its constitutionality. However, no case has dealt with this type of regulation in Georgia.

§6-3-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Development Agreement Resolution [Ordinance] of _____ County [City of _____].

§6-3-2 FINDINGS

The need for a development agreement arises in instances where a landowner generally wishes to guarantee that a local government's land use regulations will remain fixed during the life of a prospective land development on a subject parcel. The local government, on the other hand, seeks as many concessions and land development conditions as possible beyond what it could reasonably require through subdivision regulations under the normal exercise of its authority or police power.

Developers have an incentive to voluntarily enter into a development agreement with the County [City] that will limit the property use(s), even though the County [City] does not have regulations governing land uses by district at the effective date of this Resolution [Ordinance], because the prospects exist that the local government will adopt and apply land use restrictions to said property in the future. Hence, a development agreement would benefit a developer by locking in the development regulations that apply to a particular development, even if the local government subsequently adopts land use regulations.

Developers also have an incentive to voluntarily enter into a development agreement with the County [City] for two other important reasons, even if no land use regulations currently apply to a proposed development. First, the developer may need the cooperation of the County [City] in extending infrastructure (e.g., water and sewer lines, drainage facilities, roads, utilities, etc.), and such cooperation may not be forthcoming in the absence of concessions voluntarily

submitted to by the developer in the form of a development agreement. Second, knowledge of a pending development may stir citizen controversy, and even if the County [City] has no land use regulations, the development agreement becomes a flexible negotiating instrument whereby the developer can submit to certain concessions (i.e., limits on land uses) that will satisfy neighborhood concerns.

The County [City] similarly has interests in voluntarily entering into a development agreement in certain instances. As just noted, the County [City] may have an interest in limiting land uses in a given area because of citizen opposition. Without the mechanism of a voluntary development agreement and in the absence of land use regulations, the County [City] has virtually no control over the quality, extent, and location of a proposed development. The County [City] will also support entering into development agreements in cases where infrastructure is needed to serve the development but no existing regulation exists to require such improvements.

The Board of Commissioners of _____ County [Mayor and City Council of the City of _____], Georgia, therefore finds that a negotiated development agreement, voluntarily submitted by a development applicant and involving infrastructure improvements and limits on land use regulations, can be in the best interests of the County [City] and the development community and within the proper scope of the county's [city's] police powers.

§6-3-3 PURPOSE

The purpose of a development agreement is to vest certain development rights in the landowner/developer in exchange for construction and dedication of public improvements, certain restrictions on land uses, and other concessions on the part of developer. A development agreement allows a developer who needs additional discretionary approval now or in the future to acquire long-term project approval, regardless of any local regulations that may be subsequently adopted. Development agreements will provide assurances to the applicant for a particular development project, that upon approval of the project, the applicant may proceed with the project in accordance with all applicable local statues, ordinances, resolutions, rules, and policies in existence at the time the development agreement is executed and that the project will not be restricted or prohibited by the county's [city's] subsequent enactment or adoption of laws, ordinances, resolutions, rules, or policies. Public benefits derived from development agreements may include, but are not limited to, restrictions on land uses, limits on

development intensity and location, affordable housing, design standards, and on- and off-site infrastructure and other improvements. The local government needs a mechanism for negotiating such benefits in return for the vesting of development rights for a specific period. It is therefore the specific purpose of this Resolution [Ordinance] to authorize the local governing body to exercise its police powers to enter into individual development agreements and to specify the content and procedures for such development agreements.

§6-3-4 AUTHORITY TO ENTER INTO DEVELOPMENT AGREEMENTS

The Board of Commissioners of _____ County [Mayor and City Council of the City of _____], Georgia, hereby exercises its police powers to negotiate and enter into a voluntary development agreement upon application of a developer. The procedure for entering into a development agreement, and the contents of any development agreement, shall be consistent with the requirements of this Resolution [Ordinance].

§6-3-5 APPLICATION

Any person having a legal or equitable interest in real property may make application to enter into a development agreement with the County [City]. Applications shall be made to the Land Use Officer on forms furnished by said Land Use Officer and according to specifications of the Land Use Officer. The County [City] may establish an application fee to recover from applicants the direct costs associated with holding a public hearing on the application and providing notice thereof. Such application fee, if adopted by the County [City], shall be submitted along with said application.

§6-3-6 REQUIRED CONTENTS OF A DEVELOPMENT AGREEMENT

Any application for a development agreement, and any development agreement itself, shall at minimum contain the following provisions:

§6-3-6.1 Definitions. All technical terms to be used in the development agreement shall be precisely defined. Terms that have been defined in any applicable statute or ordinance should be defined the same way in the agreement.

§6-3-6.2 Parties. All parties to the agreement shall be named and their capacities to enter into the agreement clearly stated. In the case of developer/owners, their equitable or legal interests in the property must be stated.

§6-3-6.3 Relationship of the Parties. The relationship between the parties to the agreement shall be stated clearly. Typically, the statement will specify that the relationship is contractual and that the owner/developer is an independent contractor, and not an agent of the local government.

§6-3-6.4 Property. The property to be subject to the agreement shall be clearly and thoroughly identified. An attachment, preferably with a map, specifically describing the property shall be provided and incorporated into the agreement by reference. Specifically, the agreement shall provide that the property is located in the City [County] of _____, more particularly described in Exhibit "A" (attached hereto and incorporated herein), which real property is the subject matter of this Agreement, and that said property consists of ____ acres of property.

§6-3-6.5 Intent of the Parties. The intent of the parties to be bound by the terms of the agreement should be clearly stated. The agreement shall specifically include a statement that the property owner represents that it has an equitable or a legal interest in the real property and that all other persons holding legal or equitable interests in the real property are to be bound by the agreement. The development agreement may provide for the rights and obligations of the property owner under the agreement to be transferred or assigned.

§6-3-6.6 Recitation of Benefits and Burdens. The agreement shall recite the benefits each party expects to gain from entering into the agreement, as well as the burdens each party agrees to bear. Because the agreement will be treated as a contract, the consideration each party is to receive from the other should be stated clearly in order to ensure enforceability. The benefits to the local government and community must be expressed in terms that exhibit the agreement as consistent with (or as an exercise of) the police power.

Commentary: Stressing such benefits may help protect the agreement against a "bargaining-away-the-police-power" challenge (Callies and Tappendorf 2001).

§6-3-6.7 Notice and Hearings. The date upon which the public hearing was held shall be noted, as well as all relevant findings resulting from such hearing. All other pertinent notice and hearing requirements should be recited.

§6-3-6.8 Applicable Land Use Regulations. The agreement shall contain a precise statement of all land use regulations to which the development project will be subject. The agreement should specify precisely which regulations will apply to the project regardless of future changes, or otherwise be affected by the agreement. The statement shall clearly state that regulations not specifically so identified will not be affected by the terms of the agreement, and will be subject to enforcement and change under the same criteria that would apply if no agreement were in effect. The development agreement shall specify that, unless otherwise provided by the development agreement rules, regulations, official policies governing permitted uses of the land, governing density, governing design, improvement and construction standards and specifications applicable to the development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. The agreement should also specify that the County [City] hereby agrees that it will accept from the property owner for processing and review all development applications for development permits or other entitlements for the use of the real property in accordance with this agreement, provided that said applications are submitted in accordance with County [City] rules and regulations and fees, if any, have been paid.

Commentary: The local government may have few land use regulations that apply. Indeed, this module has as a basic premise that the local government does not have any significant land use regulations in place.

§6-3-6.9 Approval and Permit Requirements. The agreement shall specify all discretionary approvals and permits that will have to be obtained before the development can proceed beyond its various stages. All conditions precedent to the obtaining of the permits and approvals should be listed.

§6-3-6.10 Uses Permitted Under the Agreement. The agreement must specify: (1) the permitted uses of the property; (2) the density or intensity of use; and, (3) the maximum height and size of proposed buildings.

§6-3-6.11 Uses Prohibited by the Agreement. The development agreement may establish limits to permissible uses or prohibit certain uses on the subject property.

§6-3-6.12 Dedications and Reservations. The agreement should provide, where appropriate, a statement of any land or improvements to be dedicated to the County [City] or land reservations made by the developer for public purposes, and the specific time period for such dedications and reservations as they relate to the date of entering into the agreement.

§6-3-6.13 Utility Connections. All water and sewer service, either to be provided by the developer or by the local government, shall be described in detail, together with schedules of construction completion, cost allocation (between or among developers and government and later developers), hookup or connection schedules, and parameters for permitting, including fees for utility provision and service.

§6-3-6.14 Duration of the Agreement. The agreement shall state a termination date. It should also specify project commencement and completion dates, either for the project on the whole, or for its various phases. The agreement should specify that the termination date can be extended by mutual agreement, and that commencement and completion dates may also be extended.

§6-3-6.15 Amendments and Termination. The development agreement shall provide that it may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement or their successor in interest. The agreement shall include the conditions under which the agreement can be amended, canceled, or otherwise terminated. The agreement shall specifically include that in the event that State or Federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations. The development agreement shall also specifically state that if the local government finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with the terms or conditions of the agreement, the local government may terminate or modify the agreement.

§6-3-6.16 Periodic Review. The agreement should provide for periodic reviews of the project in order to determine compliance with the terms of the agreement. Unless otherwise negotiated, the Land Use Officer of the County [City] shall be responsible for performing such reviews.

§6-3-6.17 Remedies and Enforcement. Remedies for breach on the part of either party shall be provided, and the agreement shall provide for enforcement of its provisions.

§6-3-6.18 Approval and Signature Block. The agreement shall specifically provide signature blocks for execution upon approval by ordinance, preceded by the following statement:

AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this _____ day of _____ , _____ by and between _____ THE COUNTY [CITY] OF _____ , and _____, a _____ corporation [partnership, etc.] (hereinafter referred to as "Property Owner"). On _____ , _____ , the Board of County Commissioners [Mayor and City Council] adopted Resolution [Ordinance] No. _____ approving the development agreement with the Property Owner. The Resolution [Ordinance] thereafter took effect on _____, ____ .

§6-3-7 ADOPTION BY ORDINANCE AFTER PUBLIC HEARING

The Board of Commissioners of _____ County [Mayor and City Council of the City of _____] shall only enter into a development agreement pursuant to the Resolution [Ordinance] if a developer has made application for a development agreement, the Board [Mayor and City Council] has held a public hearing after which adequate notice was given in compliance with the Zoning Procedures Law (O.C.G.A. 36-66), and if a particular development agreement is adopted by Resolution [Ordinance] of said Board [Mayor and City Council]. Furthermore, a development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the comprehensive plan of the County [City].

Commentary: Local governments wishing to adopt this Resolution [Ordinance] but which have not adopted zoning procedures should incorporate applicable provisions of Section 7-1 of this model code, which has been written to comply with the Zoning Procedures Law.

§6-3-8 ADMINISTRATION

The Land Use Officer shall administer the provisions of this Resolution [Ordinance].

References:

Callies, David L., and Julie A. Tappendorf. 2001. Annexation Agreements and Development Agreements. In Patricia E. Salkin, ed., Trends in Land Use Law from A to Z: Adult Uses to Zoning. Chicago: American Bar Association.

Schiffman, Irving. 1999. Alternative Techniques for Managing Growth. Berkeley: University of California, Berkeley, Institute of Governmental Studies Press.

Taub, Ted. 1990. Development Agreements. Land Use Law & Zoning Digest 42, 10: 3-9.

§6-4 MAJOR PERMIT REQUIREMENT

CONTENTS

§6-4 MAJOR PERMIT REQUIREMENT

Description and purpose. This alternative is a modification of Vermont's Act 250 (adopted in 1970) permitting requirements. It establishes a local permit requirement for certain types of development. Rather than have such permits considered and acted upon by a regional commission, as is the case in Vermont, this alternative suggests that cities and counties could be the permit authority. This module is similar in many respects to Section 6-5, environmental impact review.

Example applications. Vermont's Act 250 establishes a permit requirement for virtually any development involving a "greater than local" impact. All housing projects with 10 or more units, all subdivision proposals with 10 or more lots, and commercial or industrial projects involving more than one acre in towns without zoning regulations, are among the types of development covered by Act 250 permit requirements. Permit requirements do not extend to farming and forestry activities.

Administrative requirements for implementation. While the locality could implement the permit process, there is likely going to be a need for an appeal procedure. Vermont administers the Act 250 permit requirements on a regional basis. Particularly complex permit applications require more expertise to administer. Adequate staffing has been an issue with Act 250 permit requirements (DeGrove 1984). The administrative requirements of a major permit ordinance would be similar to the "development standards and site plan review ordinance" alternative described above.

§6-4-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Major Permit Resolution [Ordinance] of _____ County [City of _____]."

§6-4-2 PURPOSE AND INTENT

The purpose and intent of this Resolution [Ordinance] is to establish a requirement that developers proposing land developments that meet or exceed a given threshold must have projects reviewed according to specific criteria.

§6-4-3 TYPES OF USES SUBJECT TO MAJOR PERMIT

The following uses shall require a major permit to be approved by the local governing body after application by the property owner and review by the planning commission:

(a) Any housing or manufactured home park development of 10 or more units.
(b) Any commercial or industrial project on more than 10 acres.
(c) Any subdivision of land involving the sale of subdivided land where 10 or more lots are involved, and each lot is less than 10 acres.

No land use permit or building permit shall be issued for a development requiring a major permit until a major permit application has been submitted, reviewed by the planning commission, and approved by the local governing body in accordance with the provisions of this Resolution [Ordinance]. No person shall sell or offer for sale any interest in any subdivision located in the County [City] or commence construction on a subdivision or development, or commence development without a permit if required by this Resolution [Ordinance].

The permit required under this Resolution [Ordinance] shall not supersede or replace the requirements for a permit required by any state agency or any other permits which may be required by the local government.

§6-4-4 APPLICATION REQUIREMENTS

All applications shall consist of the following.

§6-4-4.1 Site Plan. In conjunction with the application for a major permit, the applicant shall submit a site plan with sufficient detail to determine the nature of the proposed development in relation to the review criteria established for major permits by this Resolution [Ordinance].

§6-4-4.2 Fee. A fee shall be submitted as established from time to time by the local governing body.

§6-4-5 APPLICATION PROCESS

Upon receipt of a completed application for a major permit as required by this Resolution [Ordinance], the Land Use Officer shall conduct a review of said application. The Land Use Officer may seek the opinions and/or recommendations of any other local, regional, state, or federal agency with expertise in the particular impacts of a proposed development. The Land Use Officer and Planning Commission may conduct such investigations, examinations, tests and site evaluations as they deem necessary to verify information contained in the application. An applicant shall grant the Land Use Officer and members of the Planning Commission permission to enter upon land under review for a major permit for these purposes. The Land Use Officer shall forward recommendations to the Planning Commission on the application within 30 days the application was determined to be complete. All other procedures for review and public hearing by the planning commission and review and public hearing by the local governing body shall be followed as described in Section 7.1 of this code for conditional uses.

§6-4-6 CRITERIA FOR MAKING DECISIONS ON MAJOR PERMITS

The Land Use Officer and Planning Commission shall provide written findings and recommendations to the local governing body as to whether the proposed development meets, or does not meet, the following criteria for approval. The proposed development:

(1) Will not result in undue water or air pollution. In making this determination it shall at least consider the following: the elevation of the land above sea level; and in relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable health and water resources regulations.

(2) Has sufficient water available for the reasonable foreseeable needs of the subdivision or development.
(3) Will not cause unreasonable burden on existing water supply if one is to be utilized.
(4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
(5) Will not cause unreasonable highway congestion, or unsafe conditions.
(6) Will not cause an unreasonable burden on the ability of a school district to provide educational services.
(7) Will not place an unreasonable burden on the ability of a local government to provide municipal or governmental services.
(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.
(9) Conforms to a duly adopted comprehensive plan prepared by the local government with jurisdiction.
(10) Conforms to a duly adopted regional plan.

In considering the preceding 10 criteria, the Land Use Officer, Planning Commission, and Local Governing Body shall be guided and restricted by the following.

(a) No application shall be denied unless it is found that the proposed subdivision or development will be detrimental to public health, safety, or general welfare.
(b) For criteria 1 through 4, 9, and 10, the burden of proof is on the applicant to prove the case.
(c) For criteria 5 through 8, the burden of proof falls on those who object to the major development application. Adverse information brought up under criteria 5 through 7 cannot be used as the sole reason for denial.
(d) In considering criteria 9 and 10, the Land Use Officer, Planning Commission, and Local Governing Body shall take into consideration the growth in population experienced by the County [City] and region in question and whether or not the proposed development would significantly affect their existing and potential financial capacity to reasonably accommodate both the total growth and the rate of growth otherwise expected for the County [City] and region, as well as the total growth and rate of growth which would result from the development if approved.
(e) The local governing body will not grant a permit for a development or subdivision which is not physically contiguous to an existing urban or suburban area unless it is

demonstrated that, in addition to all other applicable criteria, the additional costs of public services and facilities caused directly or indirectly by the proposed development or subdivision do not outweigh the tax revenue and other public benefits of the development or subdivision, such as increased employment opportunities or the provision of needed and balanced housing accessible to existing or planned employment centers.

(f) The Land Use Officer and Planning Commission may recommend, and the local Governing Body may impose, such requirements and conditions on the major permit as are allowable and proper exercise of the police power, and which are appropriate with respect to the previously outlined criteria for review of permits.

§6-4-7 APPEALS

Any person aggrieved by a decision of the Local Governing Body pursuant to this Resolution [Ordinance] may appeal said decision within 30 days to a court of competent jurisdiction. Any person aggrieved by a decision of the Land Use Officer in the administration, interpretation, or enforcement of this Resolution [Ordinance] may appeal said decision to the Board of Appeals in accordance with procedures established in Section 7.2 of this code.

References:

DeGrove, John M. 1984. Land Growth and Politics. Chicago: Planners Press.

Myers, Phyllis. 1974. So Goes Vermont: An Account of the Development, Passage, and Implementation of State Land-use Legislation in Vermont. Washington, DC: Conservation Foundation.

Vermont Statutes: TITLE 10 Conservation And Development: PART 5 Land Use And Development: CHAPTER 151. STATE LAND USE AND DEVELOPMENT PLANS

§6-5 ENVIRONMENTAL IMPACT REVIEW

CONTENTS

§6-5 ENVIRONMENTAL IMPACT REVIEW

Background: Local governments in Georgia have generally not required developers to identify and mitigate the impacts of development on the environment. Other states, such as Washington and California, have state environmental policy or quality acts that require local governments to review private development proposals for environmental impacts and to mitigate those impacts if found to be significant. Such impacts may include, but are not limited to: degradation of sensitive environmental habitats and wildlife; air pollution; problems with circulation and mobility; water drainage and quality problems; the cumulative increase in noise; alteration of natural topography and views; land use incompatibility; and burdens from increased demands for public and municipal services. Without a formal environmental assessment requirement that considers the impacts of development, local governments do not know whether the combined impacts of several developments will significantly affect the environment.

Description: With this approach, a local government would adopt an ordinance requiring environmental impact review. This module provides an environmental impact review process based largely on the California Environmental Quality Act (CEQA), but in a much simplified form. Adoption of this module will allow local governmental agencies to consider the environmental consequences of projects via the preparation of a document called an environmental checklist. The environmental checklist provides local decision-makers with

information and an analysis of environmental effects of the proposed project and, when those effects are deemed significant, it suggests possible ways to lessen the potential impacts and/or avoid damage through mitigation measures. The environmental checklist must also disclose significant environmental impacts that cannot be avoided or mitigated and significant cumulative impacts of all past, present and reasonably foreseeable future projects.

The first step of the environmental review process is for the proposed developer to prepare and submit an environmental checklist of factors that will be potentially affected by the proposed development. For each item on the environmental checklist, a determination is made whether impacts will occur. All determinations are supported by a brief explanation of the conditions and findings that contribute to such determinations. Preliminary studies sufficient to ascertain impacts may be required to support the analysis and findings. If it is found that one or more significant impacts will occur, the development applicant must propose mitigation. The local government (Land Use Officer) makes a determination whether all significant impacts have been adequately mitigated and if additional assessments are required (such as a wellhead protection plan). Ultimately, the environmental impact review process is a vehicle for local decision-makers to decide if a proposed project should be authorized or whether the impacts cannot be mitigated and development should not proceed.

Legal Commentary: Legal Counsel advises that state law for some projects, which meet the threshold under this ordinance, may preempt environmental assessment by the local government. For example, the Georgia Department of Natural Resources undertakes environmental assessments for mining and landfills, Environmental Protection Division, as part of its permitting process. Although zoning approval of the local government is required by the regulations, this environmental impact review ordinance may apply with any zoning. Therefore, this module probably should apply only to those projects for which a state permit is not required.

§6-5-1 TITLE

This Ordinance shall be known and cited as the "Environmental Impact Review Resolution [Ordinance] of the County (City) of _____".

§6-5-2 PURPOSE AND INTENT

The purpose and intent of this ordinance is to establish a requirement that developers proposing land developments that meet or exceed a given threshold must assess environmental impacts of the proposed development and implement measures to mitigate significant impacts where they occur. This ordinance establishes a process for the review and approval of an environmental checklist. It authorizes the local government to place conditions on development approval when impacts of a proposed development would be significant and mitigation measures are deemed necessary. In cases where impacts of a development proposal are severe and cannot be mitigated, this ordinance authorizes the denial of project approval.

Commentary: A recommended environmental checklist format is attached, which should be adopted by reference. The recommended checklist may be modified as necessary to reflect environmental conditions unique to the particular jurisdiction.

§6-5-3 DEFINITIONS

Environment: The natural environment and the man-made environment, and all of the physical, biological, cultural, or socioeconomic components associated with the natural and man-made environment.

Local Governing Body: The Board of Commissioners of _____ County [or the Mayor and City Council of the City of _____].

Mitigation: Action designed to reduce, negate, resolve, avoid, replace, or otherwise correct a condition with regard to project-induced losses or impacts, including, but not limited to the following: restoration, creation, or enhancement of natural conditions; changes to one or more design features of the proposed development, including reduction in scale or limitations on the locations of certain land uses or activities; financial assistance with regard to a particular problem or issue; the provision of infrastructure improvements; or any other action that would reduce, avoid, correct, or otherwise resolve the potential impacts associated with development

of the project. In determining measures to mitigate impacts, the following shall be considered the order of preference: (a) Avoiding the impact altogether by not taking a certain action or parts of actions; (b) Minimizing impacts by limiting the degree or magnitude of an action and its implementation; (c) Rectifying impacts by repairing, rehabilitating, or restoring the affected environment; (d) Compensating for an impact by replacing or providing substitute resources or environments; and (e) Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action.

Significant adverse environmental impact: Any effect which has the potential to do the following: degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; eliminate important examples of the major periods of Georgia's history or prehistory; overburden public infrastructure or public services; result in traffic congestion, excessive noise, or degrade air quality, or cause any other substantial adverse effects on human beings and/or the built environment, either directly or indirectly.

Qualified professional: A person who has received a degree from an accredited college or university in a field necessary to identify and evaluate a particular impact, and/or a person who is professionally trained and/or certified in such field(s).

§6-5-4 THRESHOLDS OF APPLICABILITY AND EXEMPTION

This Resolution [Ordinance] shall apply to any proposed project which:

(a) Has a project area of 10 or more acres.

(b) Involves the construction of 20,000 gross square feet or more of building space for residential, institutional, office, commercial, or industrial purposes.

(c) Involves a subdivision of land containing 10 or more lots;

Provided, however, that this Resolution [Ordinance] shall not apply to any project regardless of size for which a permit is required by the State Department of Natural Resources, Environmental Protection Division and which contains a process of environmental assessment.

Commentary: Examples of development projects where environmental impact analyses have been applied include shopping centers, industrial parks, planned unit developments, area redevelopment, industrial facilities, power plants, and public projects such as highways, airports, dams, and water and sewerage systems. While most environmental impact analyses have

focused on larger-scale projects, especially those in urban areas, environmental impact analysis requirements are increasingly being applied to smaller development projects (Burchell et al. 1994). The thresholds recommended in this ordinance would apply the environmental impact review requirements to relatively small developments. Local governments can establish the thresholds of applicability at any level they find appropriate.

§6-5-5 GENERAL PROVISIONS

The Land Use Officer shall review all development applications to determine if the requirements of this Resolution [Ordinance] apply. No land development or activity that meets or exceeds the thresholds of applicability specified in this Resolution [Ordinance] shall be permitted, until or unless the developer of the proposed land development or activity has complied with the requirements of this Resolution [Ordinance]. No land use permit, preliminary plat approval, building permit, or any other locally required permit for development shall be issued for any development that meets or exceeds the thresholds of applicability specified in this Resolution [ordinance] until the environmental review procedure specified by this Resolution [Ordinance] has been satisfied.

§6-5-6 ENVIRONMENTAL CHECKLIST ADOPTED BY REFERENCE

The environmental checklist attached to this Resolution [Ordinance] is hereby adopted and made a part of this Resolution [Ordinance].

§6-5-7 APPLICATION REQUIREMENTS

All applications for environmental impact review shall consist of the following:

§6-5-7.1 Environmental Checklist. An applicant for a development project that meets or exceeds one or more thresholds of applicability specified by this Resolution [Ordinance] shall complete an environmental checklist, which shall be reviewed and processed in accordance with this Resolution [Ordinance]. The project applicant shall be responsible for responding to all questions in the environmental checklist. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts. In order to provide analysis of the

project impacts on the environment to a level where it is possible for the Land Use Officer to determine the level of significance, the project applicant may find it necessary to have additional studies conducted, such as traffic studies; biological resources inventories; geotechnical assessments; soils studies; and other studies depending on the types of impacts anticipated. In cases where significant impacts are anticipated, the project applicant should utilize the services of a qualified professional to prepare the responses to the Environmental Checklist or any information related thereto. The Land Use Officer may require the applicant to submit technical assessments which shall be adequate for the Land Use Officer to evaluate the development proposal and all probable significant adverse impacts. The Land Use Officer may find that such technical assessments are not necessary for the reason that adequate factual information already exists at his or her disposal to facilitate such evaluation. Technical assessments, if required, shall be attached to or incorporated into any environmental checklist required for the development proposal.

§6-5-7.2 Site Plan. In conjunction with the application for environmental impact review, the applicant shall submit a site plan with sufficient detail to determine the nature of the proposed development.

§6-5-7.3 Fee. A fee shall be submitted as established from time to time by the Local Governing Body.

When the proposed development requires the submittal of another application for review and approval by the Local Governing Body, such as a change in land use intensity district, conditional use permit, preliminary plat, development permit, land use permit, or building permit, the environmental checklist shall be submitted by the applicant and processed by the local government concurrent with the application first required in the sequence of development approval. To this end, the Land Use Officer shall incorporate the environmental checklist into the application materials required for submittal as part of all other development approval processes of the local government. When no such application is required for the proposed development, the environmental checklist shall be submitted as a separate application for approval. Nothing in this Resolution [Ordinance] shall be construed to require an applicant to submit an environmental checklist and perfect an environmental impact review more than one time for the same or substantially similar development proposal.

Commentary: The requirements of this ordinance need to be tied to the local government's various development approval processes, if they exist. If another type of application is required, such as a subdivision plat, land use permit, conditional use, etc., then the environmental review process should be incorporated into the first application process encountered by the applicant or the first application necessary for project approval. If the local government requires no such development applications, then the environmental review process may occur on its own separate track.

§6-5-8 REVIEW BY LAND USE OFFICER AND OTHER AGENCIES

Upon receipt of a completed application for environmental impact review, the Land Use Officer shall conduct a review of said application. If the environmental impact review application is submitted concurrent with another application for development required by the local government, the Land Use Officer shall conduct the review within the time frame established for the application. If no other development application is required for the proposed development other than the environmental impact review, then the Land Use Officer shall review and make a decision on the environmental impact review application within 30 days of the date the application was certified as complete. The Land Use Officer may seek the opinions and/or recommendations of any other local, regional, state, or federal agency with expertise in the particular impacts of a proposed development. The Land Use Officer may rely on the opinions or recommendations of any qualified agency in making a determination required by this Resolution [Ordinance] provided said opinions or recommendations are in received in writing by the Land Use Officer.

§6-5-9 DETERMINATION BY LAND USE OFFICER

On the basis of reviewing the environmental checklist and any supporting materials, the Land Use Officer shall make a written determination of impact on the application. The Land Use Officer shall make one of the following determinations, in writing, which shall be forwarded to the development applicant:

(a) Finding of no significant impact (FONSI). "The proposed project will not have a significant adverse environmental impact." If such a determination is made, no further

action except for notification to the applicant is needed, and the development application shall be processed and approved, pending any other required approvals.

(b) Significant impacts will be mitigated. "The proposed project would have a significant adverse environmental impact on the environment, but the applicant has proposed measures sufficient to mitigate the identified adverse impacts. If the proposed development is approved contingent upon one or more measures of mitigation, the development will not have a significant adverse environmental impact." If such a determination is made, no further action is needed except for notification to the applicant, and the development application shall be processed and approved, contingent on the applicant's compliance with a written listing and description of measures required to mitigate significant adverse environmental impacts, which shall automatically become conditions of development approval.

(c) Finding of probable significant adverse impact – environmental impact statement required. "The proposed project will have a significant adverse environmental impact, and the application does not have sufficient information to determine with precision the nature and extent of the probable adverse environmental impacts. Therefore, additional information in the form of an environmental impact statement is required to be supplied by a qualified professional." If such a determination is made, the Land Use Officer shall clearly identify in writing to the applicant the nature of such impacts, the types of information or special studies that are required to be included in the environmental impact statement, and the professional qualifications required, if any, to further assess impacts and/or determine how to mitigate the adverse environmental impacts of the proposed development. Such a finding shall suspend the environmental impact review and any concurrently proposed development application until such time as the required environmental impact statement is submitted to the Land Use Officer, at which time review by the Land Use Officer will resume and action on the environmental impact review application and any concurrently proposed development shall proceed in accordance with procedures following the completion of environmental impact statements, as set forth in this Resolution [Ordinance].

Commentary: There is substantial discretion on the part of the Land Use Officer in exercising the powers to make determinations of impact. The Land Use Officer must be fair and impartial, and also must be educated on multiple dimensions of impact analysis. The environmental impact review determination needs to be done administratively rather than by a planning

commission or Local Governing Body, however. One alternative, if local expertise is not available on staff, would be to appoint a qualified hearings examiner to make the impact determinations (see Section 7-4 of this model code).

§6-5-10 PROCEDURES FOLLOWING COMPLETION OF AN ENVIRONMENTAL IMPACT STATEMENT

Upon receiving a completed environmental impact statement, the Land Use Officer shall have 30 business days to conduct a review and another determination on the environmental impacts of the proposed development. The Land Use Officer shall arrange for the proposed development application and environmental impact statement to be scheduled for public hearing before the Local Governing Body no later than 45 days following receipt of a completed environmental impact statement. The applicant shall be notified in writing of the date, time, and place of the hearing at least 15 days prior to public hearing. The Land Use Officer's written determination and recommended mitigation measures shall be transmitted to the project applicant at that time. The public shall be given notice by publication in a newspaper of general circulation in the territory of the local government at least 15 days prior to the public hearing of the date, time, place, and nature of the hearing, along with information pertaining to identification of the property. The environmental impact statement, environmental checklist, Land Use Officer's written determination, and any recommended revisions and mitigation measures, shall be placed at a location available for public review at the County [City] offices at least 15 days prior to the public hearing. The applicant shall, at the hearing, have an opportunity personally or through counsel, to present evidence and argument in support of the proposed application and measures proposed to mitigate adverse environmental impacts.

§6-5-11 ACTION ON ENVIRONMENTAL IMPACT STATEMENT AND DEVELOPMENT APPLICATION

Following the public hearing, the Local Governing Body may take one of the following actions:

(a) Accept the environmental impact statement and approve the development application and any concurrent applications as may be applicable, subject to compliance, as a condition of development approval, with mitigation measures specified in the environmental impact statement or as recommended by the Land Use Officer or modified by the Local Governing Body

(b) Accept the environmental impact statement, but deny the development project and environmental impact review approval on appropriate grounds which may include: 1) the adverse environmental impacts cannot be mitigated, or 2) the proposed development or development applicant cannot or is unwilling to comply with selected or all conditions and revisions as recommended in the environmental impact statement or as required by the Local Governing Body.

(c) Delay action on the environmental impact statement and development project for a defined period of time, not to exceed six months, for the purpose of negotiating with the project applicant to seek compliance with all of the conditions determined appropriate by the Local Governing Body. During this negotiation process, the Land Use Officer and the Local Governing Body may modify its original requirements for conditions in an effort to seek mutual agreement on the mitigation measures required for project approval.

ENVIRONMENTAL CHECKLIST

Basic Information

1. Project Title:
2. Lead Agency Name and Address: (LAND USE OFFICER)
3. Contact Person and Phone Number:
4. Project Location (Address, City or Township, County):
5. Project Sponsor's Name, Address, Phone and FAX:
6. Comprehensive Plan Designation:
7. Zoning (if Applicable):
8. Description of Project: (Describe the whole action involved, including but not limited to all phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
9. Surrounding Land Uses and Setting. Briefly describe the project's surroundings and adjacent land uses:
10. Other Public Agencies whose Approval is Required (i.e., federal permits, financing approval, participation or service agreement):
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is potentially significant as indicated by the checklist on the following pages.

❑ Aesthetics	❑ Agriculture Resources	❑ Air Quality
❑ Biological Resources	❑ Historic/Cultural Resources	❑ Geology/Soils
❑ Hazards and Hazardous Materials	❑ Hydrology/Water Quality	❑ Land Use/Planning
❑ Mineral Resources	❑ Noise	❑ Population/Housing
❑ Public Services	❑ Recreation	❑ Transportation/Traffic
❑ Utilities/Service Systems	Other (specify)	

INSTRUCTIONS FOR COMPLETING THE ENVIRONMENTAL CHECKLIST

The following instructions pertain to the Environmental Checklist. The project applicant is required to provide responses and supplemental analysis to the questions on separate sheets of paper. The question need not be repeated in the response. Only reference to the Issue Number (example: I.a., II.b., etc.) is necessary.

Commentary: Due to the level of detail that may be required to answer the questions, the project applicant should consider hiring a qualified professional to prepare the Checklist responses, as well as perform research, evaluate conditions, conduct supplemental studies, and investigate general standards of significance in order to formulate responses from which the lead agency (Land Use Officer) can make a determination of impact.

The lead agency (Land Use Officer) shall evaluate the responses. Following review of the responses, the lead agency shall make a determination as to the significance of the issue, and develop conditions, revisions, or other factors that shall be required as a condition of approval, if applicable.

1. A brief explanation is required for all answers. In order for a lead agency (Land Use Officer) to make a finding of no significant impact, the answer must adequately support such a determination by showing that the impact simply does not apply to the subject project, or that measures have been integrated into project design that reduce, avoid or negate a possible impact. The responses should reference information sources used (such as soils studies, traffic analysis, grading analysis, etc.), and explain project specific factors. (Response example: the proposed XX number of townhomes will generate XX trips per day, based on the Institute of Traffic Engineers Trip Generation Manual.)
2. All answers must take into account the whole action involved, including off-site as well as on-site improvements, indirect as well as direct, and construction as well as operational impacts.
3. If applicable, any earlier analyses may be used and referenced. The findings should be cited, and any measures or revisions previously recommended which have been incorporated into the proposed plan identified.
4. The responses should indicate any measures incorporated into the plan, plan design, infrastructure improvements, fees to be paid or other financial assistance provided to service provider, or other actions which are anticipated to be undertaken, which will reduce or avoid a potential impact. (Example of response: Traffic flow will be impacted by an additional XX number of trips per day as a result of development of XX number of townhomes. The plan dedicates sufficient land (XX feet in width and XX feet in length) to accommodate the creation of additional right-of-way, including a right-in turn lane, and restriping of the pavement to allow for a left turn pocket into the entrance).
5. References to information sources which will assist the lead agency (Land Use Officer) in the determination of impacts (such as the Comprehensive Plan or Master Plan for Water, Sewer, or Drainage), including sections and page numbers as appropriate.
6. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

ENVIRONMENTAL CHECKLIST

Details

ISSUE – APPLICANT TO RESPOND **(To be completed by applicant as separate attachment)**	**DETERMINATION OF IMPACT (To be completed by Land Use Officer)**	
	Potentially Significant (mitigation or revision required)	**No Impact (with or without mitigation)**
1. **Aesthetics – Would the project**:		
(a) Have a substantial impact on a scenic vista (i.e., block mountain, lake, skyline view)?		
(b) Substantially damage scenic resources, including but not limited to: trees, rock outcroppings, slopes over 30% grade, and historic buildings or sites viewed from a highway?		
(c) Substantially degrade the existing visual character or quality of the site and its surroundings?		
(d) Create a new source of substantial light or glare that would adversely affect day or night time views of the area?		
2. Agricultural Resources		
(a) Would the proposed project convert existing, productive farmland to a non-agricultural use?		
3. Air Quality -- Would the project:		
(a) Conflict with implementation of any applicable regional or local air quality plan?		
(b) Create objectionable odors affecting a substantial number of people?		
(c) Expose sensitive receptors (i.e., school, hospitals, residential units, day care centers, and similar uses) to substantial pollutant concentrations?		
4. **Biological Resources – Would the project:**		
(a) Have a substantial adverse effect, either directly or indirectly through habitat modification, on any species identified as a candidate, sensitive or special status species by the U.S. Fish and Wildlife Service or state agency?		
(b) Have a substantial adverse effect (through removal or substantial modification due to grading and site preparation) on any sensitive natural plant community identified by the US Fish and Wildlife Service?		
(c) Have a substantial adverse impact through direct removal, filling, hydrological interruption, or other substantial modification due to grading and site preparation on federally protected wetlands as defined by Section 404 of the Clean Water Act?		
(d) Interfere with the movement of any native resident or migratory fish or wildlife species, with established native or migratory wildlife movement corridors, or impede the use of native wildlife nursery sites?		
(e) Conflict with any local tree preservation ordinance?		

ENVIRONMENTAL CHECKLIST

Details (cont'd)

ISSUE – APPLICANT TO RESPOND **(To be completed by applicant as separate attachment)**	**DETERMINATION OF IMPACT (To be completed by Land Use Officer)**	
	Potentially Significant (mitigation or revision required)	**No Impact (with or without mitigation)**
5. **Cultural Resources - Would the project:**		
(a) Affect a historical resource (such as a battleground, locally significant historic structure or site, National Register sites or structures, an archaeological or paleontological resource?		
(b) Disturb any human remains, including those interred inside or outside of formal cemeteries?		
6. **Geology and Soils – Would the project:**		
(a) Expose people or structures to risk of loss, injury or death as a result of seismic ground shaking, landslides, ground failure due to liquefaction, or location on expansive soil?		
(b) Result in soil erosion or the loss of topsoil?		
(c) Have soils incapable of adequately supporting the use of septic tanks or other alternative wastewater systems where sewers are not available?		
7. Hazards and Hazardous Materials – Would the project:		
(a) Create a hazard to the public or the environment through routine transport, emission, use or disposal of hazardous materials? Are any potential hazardous activities located within ¼ mile of a school site?		
(b) Impair implementation of or physically interfere with an adopted emergency response or evacuation plan?		
8. Hydrology and Water Quality – Would the project:		
(a) Violate any water quality standards or waste discharge requirements? Degrade water quality?		
(b) Substantially deplete groundwater supplies or interfere with groundwater recharge (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been issued)?		
(c) Alter the drainage pattern of the site or the area, including the alteration of a stream or river, or increase the amount of surface runoff in a manner that would result in flooding on or off-site?		
(d) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems?		
(e) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map?		
9. Land Use and Planning – Would the project:		
(a) Physically divide an established community?		

(b) Result in incompatible land uses with adjacent properties and uses?		

ENVIRONMENTAL CHECKLIST

Details (cont'd)

ISSUE – APPLICANT TO RESPOND **(To be completed by applicant as separate attachment)**	**DETERMINATION OF IMPACT (To be completed by Land Use Officer)**	
	Potentially Significant (mitigation or revision required)	**No Impact (with or without mitigation)**
(c) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project?		
10. Noise – Would the project result in:		
(a) Exposure of persons to or generation of noise levels in excess of standards established in the local Comprehensive Plan, a noise ordinance, or applicable standards of other agencies?		
(b) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?		
11. Population and Housing – Would the project:		
(a) Induce substantial population growth in an area directly (by proposing new homes or businesses) or indirectly (through extension of roads or other infrastructure)?		
(b) Displace persons, necessitating the construction or replacement of housing elsewhere?		
12. Public Services		
(a) Would the project result in an increased service level which would impact the service response times, acceptable service ratios, or other performance objectives for:		
Schools		
Fire Protection		
Police Protection		
13. Recreation		
(a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities to the point that physical deterioration will occur or be accelerated?		
14. Transportation/Traffic – Would the project:		
(a) Cause an increase in traffic (i.e., result in an increase in vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?		
(b) Cause, either individually or cumulatively with existing traffic, a level of service standard established by the County (City) Comprehensive Plan for designated roads or by the state for any state highways		
(c) Increase hazards due to a design feature (such as sharp curves or dangerous intersections) or incompatible uses (farm equipment)?		
(d) Result in inadequate emergency access?		
(e) Result in inadequate parking capacity?		

ENVIRONMENTAL CHECKLIST

Details (cont'd)

ISSUE – APPLICANT TO RESPOND **(To be completed by applicant as separate attachment)**	**DETERMINATION OF IMPACT (To be completed by Land Use Officer)**	
	Potentially Significant (mitigation or revision required)	**No Impact (with or without mitigation)**
15. Utilities and Service Systems – Would the project:		
(a) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities?		
(b) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities		
(c) Have sufficient water supplies available to serve the project from existing resources and entitlements, or are new or expanded resources needed?		
(d) Be served by a wastewater treatment provider with current or projected capacity to serve the project?		
(e) Be served by solid waste disposal facilities with adequate capacity to support the project's waste disposal needs?		
(f) Comply with federal, state and local statutes and regulations related to solid waste?		

References:

Burchell, Robert W., et al. 1994. The Development Impact Assessment Handbook. Washington, DC: Urban Land Institute.

§6-6 LAND USE GUIDANCE (POINT) SYSTEM

CONTENTS

§6-6 LAND USE GUIDANCE (POINT) SYSTEM

Description: This module provides a simple project rating system that may have some limited potential use in rural Georgia. It can be used as a supplemental growth management tool in addition to other land use management system modules presented in this model code. The rating system is designed to allow developments that are spatially located within or contiguous to existing development in the community and fully supported by services. Developments that are remote and not served by appropriate urban-level facilities generally cannot meet the approval of the point system established in this module, unless substantial additional amenities are provided.

Applications of Land Use Guidance Systems: The term "land use guidance system" is synonymous with the approach used in Hardin County, Kentucky. The land use guidance system as employed in Hardin County combined a rating system, a compatibility assessment, and a plan assessment. This module departs from the Hardin County model, in part because the negotiated process used by that system did not pass court tests.

The two most famous pioneering efforts, Ramapo and Petaluma, both incorporated point systems into their land use codes, as did the cities of Boulder, Breckenridge, and Ft. Collins, Colorado (Porter, Phillips, and Lassar 1988). As noted by Porter, Phillips, and Lassar (1988), the Breckenridge model is one that comes closest to providing a "pure form" of performance measures for evaluations of development proposals.

There are no known applications of this tool in Georgia, although Dekalb County reportedly investigated a point system approach but discarded it because "they found that accumulation of points in minor areas might offset irreversible damage in some

other area and permit developments which would not be in the long-range interests of the community" (Georgia Mountains Planning and Development Commission 1979). The consultant (Jerry Weitz & Associates, Inc.) recommended against inclusion of this tool in the model land use management system. The reasons for initially recommending exclusion from the model code are explained in the task 2 report, "Alternative Land Use Management Techniques with Potential Application in Rural Georgia", and include legal limitations, administrative complexities, and a potential lack of political acceptance. However, the client (Georgia Department of Community Affairs, Office of Coordinated Planning) opted for including a simple point system in the model code that contains standards for the adequacy of facilities.

§6-6-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Development Rating Resolution [Ordinance] of _____ County [City of _____].

§6-6-2 PURPOSE

The purpose of this Resolution [Ordinance] is to establish a flexible land use management system using a rating procedure whereby points are awarded during a development review process for meeting standards and criteria established by this Resolution [Ordinance]. If a development can meet the score prescribed in this Resolution [Ordinance], the project shall be approved. If a given development cannot attain a high enough score to receive acceptance, the development application shall be disapproved unless the applicant can add special features or modify the project to obtain more points.

The point system uses criteria and measures to guide selection of uses and development design for a given site. To gain approval, the absolute criteria must be satisfied, and any development application must achieve a minimum score or it will not be approved.

The land use guidance system established in this Resolution [Ordinance] is intended to promote the health, safety, and general welfare of the community by ensuring

contiguous and compact development patterns that are adequately served by urban or suburban level facilities.

§6-6-3 APPLICABILITY AND PROCEDURES

No private development, unless specifically exempted, shall be approved until application has been made and reviewed by the Land Use Officer for compliance with the requirements of this Resolution [Ordinance] and approved by the Planning Commission. The Land Use Officer shall not issue a land use permit or building permit for any development until and unless said development has complied with all requirements of this Resolution [Ordinance]. The review process for development approval shall follow the procedures for conditional uses as specified in Section 7-1 of this code; provided, however, that in lieu of standards for conditional uses specified in Section 7-1, the point rating system of development criteria shall be used as the basis for approval or disapproval of a development application.

§6-6-4 EXEMPTIONS

All public uses and quasi-public uses shall be exempt from this Resolution [Ordinance]. Agricultural buildings, structures, and uses and minor subdivisions shall also be exempt. The Planning Commission may upon application and after public hearing exempt a private development if it clearly serves an important public purpose and is consistent in all major respects with the comprehensive plan of the County [City].

§6-6-5 POINT RATING SYSTEM OF DEVELOPMENT CRITERIA

The Land Use Officer and the Planning Commission shall use the following system in its review of development applications not exempted by this Resolution [Ordinance]. A development subject to review shall require a minimum of 12 points to receive approval under the terms of this Resolution [Ordinance]. Development applications that do not receive at least 12 points shall be disapproved unless the development applicant provides additional improvements or amenities that will bring the score to the minimum. (See Table 6-6-5.1).

Table 6-6-5.1

Point Rating System of Development Criteria

Criterion	Points Available	Score for Development
LOCATION OF TRACT: (score 1 of 4)		
The boundary of development abuts existing development on two or more sides.	5	
The boundary of the development abuts existing development on one side.	3	
The property to be developed is partially within one-quarter mile of existing development.	1	
The property to be developed lies one-half mile or more from existing development.	-3	
Note: "Existing development" refers to the built-up portion of the community that has a residential density of two units per acre or is developed in an urban or suburban pattern with residential nonresidential uses. The limits of the urban core of the community shall be considered existing development.		
WATER SERVICE (score 1 of 3)		
The property to be developed lies within a public water service area and is served by said system.	5	
The property to be developed lies within one-quarter mile of a public water service area and is capable of being served by said system as determined by the county [city] engineer.	3	
The property to be developed lies further than one-quarter outside a public water service area or requires a community water system or individual on-site wells for water supply.	0	
SEWER SERVICE (score 1 of 3)		
The property to be developed lies within a public sanitary sewer service area and is served by said system.	5	
The property to be developed lies within one-quarter mile of a public sanitary sewer service area and is capable of being served by said system as determined by the county [city] engineer.	3	
The property to be developed lies outside one-quarter mile of a public sanitary sewer service area or requires a community septic system or individual on-site septic systems for sewage management.	0	
ROAD CAPACITY (score 1 of 2)		
A road or roads and intersections will serve the proposed development with sufficient capacity to handle the trips generated by the proposed development as determined by the county [city] engineer.	0	
Trips generated by the proposed development will exceed the capacity of the road system.	-3	
PUBLIC SCHOOL SYSTEM (for residential uses only)		
The proposed development is located within one-mile of an elementary, middle or high school with capacity to serve the proposed residential development.	5	
The proposed development is within one mile of an elementary, middle, or high school but said facility is over capacity as determined by the school and/or will be over-capacitated by the proposed development.	0	
The proposed development is not within one mile of an elementary, middle, or high school but school facilities have adequate capacity.	0	
The proposed development is not within one mile of an elementary, middle, or high school and the nearest public school facility is over capacity as determined by the school and/or will be over-capacitated by the proposed development.	-5	

Table 6-6-5.1

Point Rating System of Development Criteria (cont'd)

Criterion	Points Available	Score for Development
ROAD FRONTAGE (for nonresidential uses only) (score 1 of 4)		
The proposed development has and will use direct access onto a state highway.	5	
The proposed development has and will use direct access onto a county or city arterial street.	3	
The proposed development has and will use direct access onto a county or city collector street.	0	
The proposed development is served only by a rural road system.	-3	
CONSISTENCY WITH THE FUTURE LAND USE PLAN (score 1 of 3)		
The use, or uses, proposed are consistent with the land use category or categories shown for the property by the future land use plan for the community.	1	
The proposed development is not clearly consistent, nor inconsistent with the future land use plan.	0	
One or more of the uses proposed are inconsistent with the land use category or categories shown for the property by the future land use plan.	-1	
LAND USE MIX (score 1 of 3)		
The proposed development consists of a mixture of two different land use types, such as institutional or civic uses in addition to the primary use within the proposed development.	5	
The proposed development incorporates one additional institutional or civic use, in addition to the primary use within the proposed development, excluding open space or recreation as a use.	3	
The proposed use consists of one single function land use only (residential, commercial, institutional, industrial, etc.) (open space or recreation shall not count as an additional use).	0	
ENVIRONMENTAL SENSITIVITY (score 1 of 4)		
The development exercises best management practices for water quality and demonstrates superior environmental practices generally, such as treated stormwater, porous pavements, filtering systems, etc., and the proposed development complies with all of the natural resources and environmental policies of the community, relative to steep slopes, wetlands, groundwater recharge areas, river corridor protection, mountain protection, stream buffering, etc.	5	
The proposed development complies with all of the natural resources and environmental policies of the community.	0	
The proposed development is inconsistent with one or more environmental policies of the community but the development will mitigate environmental impacts.	0	
The proposed development is inconsistent with one or more environmental policies of the community and the project will cause environmental degradation as shown by reasonable observable or predictable means.	-5	

Table 6-6-5.1

Point Rating System of Development Criteria (cont'd)

ADDITIONAL POINTS POSSIBLE FOR IMPROVEMENTS AND AMENITIES *Note: If a proposed development fails to receive the minimum required number of points required, the developer may add amenities to their development of sufficient number and quality to add additional points as set forth below.*	
The development includes traffic mitigation measures such as additional road capacity or traffic signalization that exceeds a proportion attributed to the needs of the development.	+2 for each $10,000 value of the improve-ment
Sidewalks not already required by the county [city] are installed.	+2
The development is linked by bike path from a nearby school, park, or other significant origin or destination modes (bike, transit, pedestrian).	+3
If a residential subdivision containing 25 or more lots, the subdivision provides multiple local streets in more or less a grid or modified-grid pattern that avoids reliance on any single collector street for access.	+2
If a residential subdivision containing 25 or more lots, the subdivision provides for a recreational facility (swim/tennis, community center, or equally significant) to serve the subdivision.	+2
The development has no more than three-quarters of its lots, units, or square footage (as the case may be) devoted to any one single type of housing (detached dwelling, duplex, manufactured home, townhouse, apartment, personal care, etc.)	+2
A minimum of twenty percent (20%) of the site is retained as open space or greenspace.	+1
The developer has set aside a significant or environmentally sensitive natural area of at least one acre for interpretive or educational purposes.	+2 for each acre
ADDITIONAL POINTS POSSIBLE FOR IMPROVEMENTS AND AMENITIES *Note: If a proposed development fails to receive the minimum required number of points required, the developer may add amenities to their development of sufficient number and quality to add additional points as set forth below.*	
The development proposes to provide a greenway constructed to local standards and connected from the proposed development site to an existing public park or trail system.	+4
The proposed development provides that ten percent or more of the units or square footage constructed will be affordable to low-moderate income individuals or households as determined by the Land Use Officer.	+2 for each 10% of total units or square footage affordable, up to 5 points

§6-6-6 APPEAL

Any person aggrieved by a decision of the Planning Commission relative to a specific development may appeal the decision to the Board of Commissioners [Mayor and City Council] if filed within 30 days of the decision. Appeals shall be processed in accordance with the provisions of Section 7-2 of this code, except as herein specifically provided.

References:

Exner, Marlene, and Russell Sawchuk. 1996. The Performance-Based Planning Model Final Report. Prepared for The Town of Morinville and Canada Mortgage and Housing Corporation. Edmonton, Alberta: Steppingstones Partnership, Inc.

Jaffe, Martin. 1993. Performance Zoning: A Reassessment. Land Use Law & Zoning Digest, 45, 3: 3-9.

Porter, Douglas R. January 1998. Flexible Zoning: A Status Report on Performance Standards. Zoning News: 1-4.

Porter, Douglas R., Patrick L. Phillips, and Terry J. Lasser. 1988. Flexible Zoning: How It Works. Washington, DC: Urban Land Institute.

§6-7 CORRIDOR MAP

CONTENTS

§6-7 CORRIDOR MAP

Description: This tool is much like an official map, but only for streets and other linear transportation facilities. It is also similar to what Fred Bair (1979) describes as a "major streets map." An official map is a map specifying the location and extent of future lands that the local government needs for public purposes. It provides more or less exact boundaries where the community intends to purchase land for streets and other facilities. An official map allows local governments to reserve designated land areas for future public improvements. It is intended to minimize indiscriminate construction of buildings and utilities that may be incompatible with plans for future public improvement activities (Ndubisi 1992). The need for designating on an official map other public land reservations, such as parks and school sites, is much less clear since alternative sites for these facilities should be available. Therefore, the model code provides for a corridor map that applies only to streets and transportation facilities. The corridor map includes land designated by the state transportation department for the construction or improvement of transportation facilities. This tool holds some promise in rural Georgia, where local governments see the need to protect future road corridors from encroachment by buildings.

Commentary on Legality: In Georgia, official maps were authorized by the General Planning and Zoning Enabling Act of 1957. The enabling legislation provided that an official map could be adopted which shows the location of streets, public building sites, and public open spaces. The law also indicates that an official map could also show public sites approved on plats of subdivisions which have been approved by the local

planning commission. If a master plan or at least a street plan was developed, a local planning commission could adopt an official map showing future streets. The enabling legislation provided for a showing of parks, playgrounds, and other public open spaces on the official map, and it enabled local governments to adopt ordinances that prohibit or restrict building construction within future streets and future public use properties. It also provided for an appeal to the Board of Zoning Appeals or if none existed, a Board of Appeals created for that purpose. The 1957 enabling legislation was invalidated as of 1976 when changes were made to the State constitution and thus that statute no longer appears in the Georgia Code. Therefore, there is no enabling legislation for adopting official maps in Georgia.

The corridor map is reportedly more legally defensible than an official map (American Planning Association 1998). Since an official map was once specifically enabled in Georgia, the corridor map (a derivative) should also be considered legal. See the section above on "administrative requirements for implementation" for additional recommendations. The corridor map ordinance must be carefully written so that it does not restrict all reasonable uses of a given parcel.

Additional Legal Commentary: From a legal standpoint, a local government would be authorized to adopt official maps showing future public improvements. If the local government prohibited development within the areas of those future public improvements, the map would likely be considered a zoning map and thus required to comply with the Zoning Procedures Law.

The bigger problem arises, as discussed in the task report, with "takings" claims. If a local government were to designate a future right-of-way, for example, and thus prohibit a property owner upon request to develop on that future right-of-way, a strong case for inverse condemnation could be made against the local government. That is to say, the local government could not prohibit indefinitely development of property in the hope that it would purchase that property in the future for a public use. But, still, the local governments should be encouraged to plan ahead and develop plans for future public uses.

For the same reasons applied in Section 19 on the "official map", the corridor map would also be legal in Georgia. This device was used extensively by DeKalb County in years past to designate future thoroughfares and corridors expected to be developed in the county. Its limitations, of course, are the same as the official map. Restrictions of development by property owners within the corridors would likely be deemed a taking.

§6-7-1 TITLE

This Resolution [Ordinance] shall be known and may be cited as the "Corridor Map Resolution [Ordinance] of the County [City] of _____."

§6-7-2 PURPOSE AND INTENT

The purposes of this Resolution [Ordinance] are to implement the local comprehensive plan, especially the thoroughfare plan, by reserving land needed for future transportation facilities designated by the plan; provide a basis for coordinating the provision of transportation facilities with new development by designating corridors where the construction and improvement of transportation facilities is expected; restrict the construction or expansion of permanent structures in the intended right-of-way of planned transportation facilities as indicated on a corridor map; and, protect the rights of landowners whose land is reserved on a corridor map.

§6-7-3 DEFINITIONS

Corridor Map: A map adopted by the County [City] that designates land to be reserved for the construction of future or improvement of existing transportation facilities. The corridor map establishes the width and termini of corridors as necessary to allow flexibility in planning the design of a transportation facility.
Reserved Land: Land shown on the corridor map as "reserved."
Transportation Facilities: Streets, highways, bikeways, sidewalks, and trails.

§6-7-4 FINDINGS AND CORRIDOR MAP ADOPTION

The County [City] hereby finds that the corridor map, which is hereby attached to and made a part of this Resolution [Ordinance], is consistent in all respects with the thoroughfare plan of the county's [city's] comprehensive plan. The County [City] hereby adopts the corridor map. The County [City] finds that prior to adoption of the corridor map, the following actions have been taken to ensure procedural due process:

§6-7-4.1 Prior to public hearing, if the proposed corridor map includes land intended for transportation facilities to be constructed or improved by governmental units other than the County [City], the County [City] submitted a copy of the proposed corridor map to the chief executive officer of each such governmental unit and allowed 30 days for said governmental units to indicate in writing any reserved land for transportation facilities for which they are responsible that they want removed from the corridor map, in which case such reserved land has been removed from the corridor map.

§6-7-4.2 At least 15 days before the public hearing, the County Board of Commissioners [Mayor and City Council] notified the public of the date, time, place, and nature of a public hearing by publication in a newspaper of general circulation in the territory of the local government.

§6-7-4.3 The Land Use Officer notified all owners of parcels of land that include proposed reserved land of the date, time, place, and nature of the public hearing by mail at least 15 days before the public hearing.

§6-7-4.4 The County Board of Commissioners [Mayor and City Council] held the public hearing at the date, time, and place advertised, and afforded all interested individuals with the opportunity to be heard concerning the proposed corridor map.

§6-7-5 GENERAL PROVISIONS

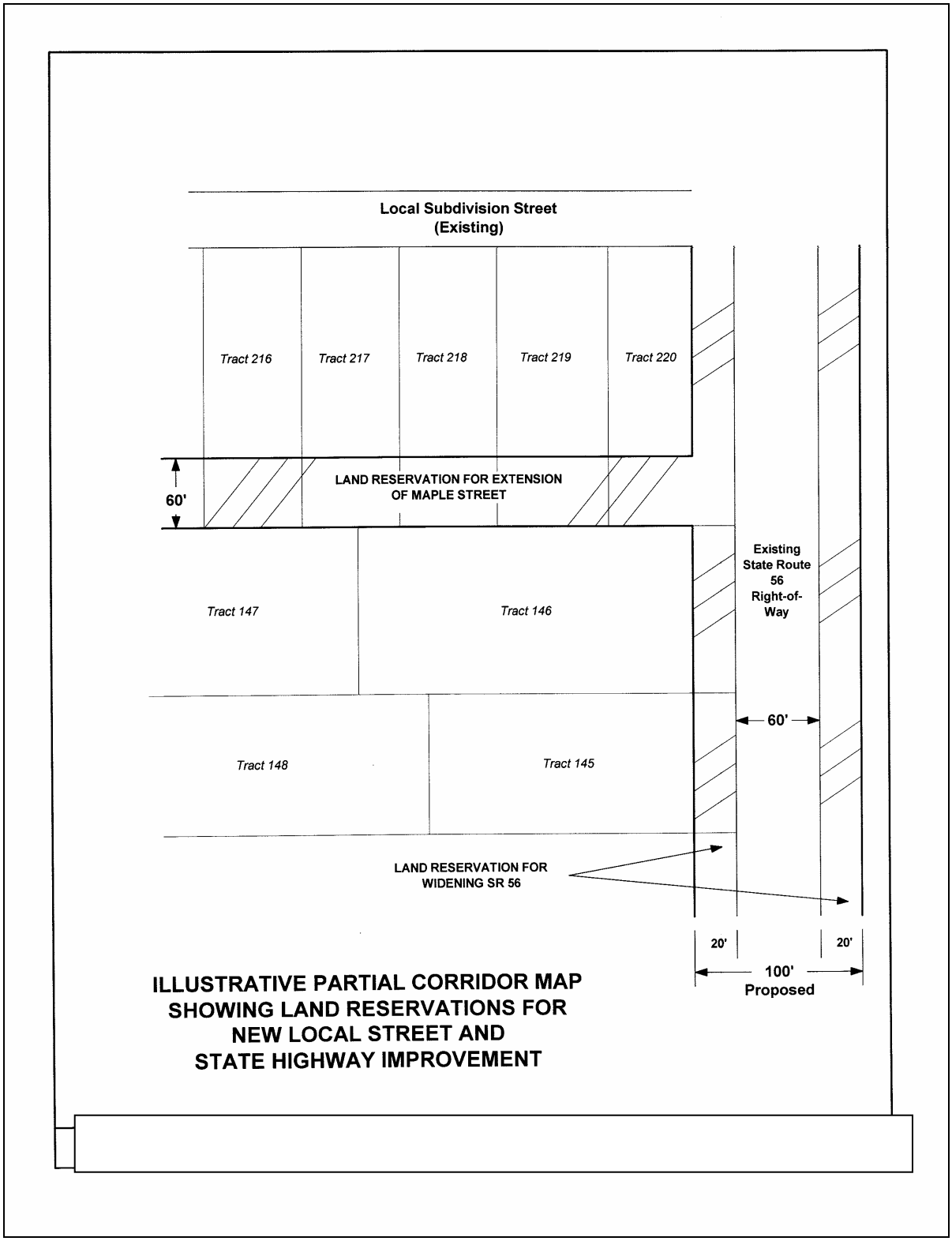
The County [City] shall not issue a Land Use Permit or any other permit for development except pursuant to the procedure and in compliance with this Section. This section does not forbid or restrict the use of any reserved land that does not constitute the

development of that land, nor does this Section forbid or restrict development on the unreserved portion of any reserved land.

§6-7-6 LAND USE PERMIT REQUIRED TO DEVELOP RESERVED LAND

An owner of reserved land who proposes to develop reserved land shall apply to the Land Use Officer for a Land Use Permit. It shall be unlawful to carry out development upon land shown as reserved on the corridor map, without first securing a Land Use Permit as required by this Resolution [Ordinance]. (See Figure 6-7-6.1).

Figure 6-7-6.1


Local Subdivision Street
(Existing)
Tract 216
Tract 217
Tract 218
Tract 219
Tract 220
60'
LAND RESERVATION FOR EXTENSION
OF MAPLE STREET
Tract 147
Tract 146
Existing
State Route
56
Right-of-
Way
60'
Tract 148
Tract 145
LAND RESERVATION FOR
WIDENING SR 56
20'
20'
100'
Proposed
ILLUSTRATIVE PARTIAL CORRIDOR MAP
SHOWING LAND RESERVATIONS FOR
NEW LOCAL STREET AND
STATE HIGHWAY IMPROVEMENT

§6-7-7 PUBLIC HEARING AND NOTICE ON LAND USE PERMIT

Upon receiving an application for a Land Use Permit involving reserved land, the Land Use Officer shall arrange for the application to be scheduled for public hearing before the County Board of Commissioners [Mayor and City Council]. The applicant, and if land is reserved for a public use by a governmental unit other than the local government, that governmental unit, shall be notified in writing of the date, time, and place of the hearing within five business days of receipt of the application, by written mail, personal service, or facsimile, at least 15 days prior to the public hearing. The public shall be given notice by publication in a newspaper of general circulation in the territory of the local government at least 15 days prior to the public hearing of the date, time, place, and nature of the hearing. The applicant shall, at the hearing, have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application, as shall any governmental unit or interested individual that has an interest in the application.

§6-7-8 ACTION

Following the public hearing, the County Board of Commissioners [Mayor and City Council] may take one of the following actions:

§6-7-8.1 Approve the Land Use Permit as proposed, with or without conditions.

§6-7-8.2 Modify the mapped corridor to remove all or part of the reserved land from the mapped corridor, and issue with or without conditions the Land Use Permit authorizing development on the land removed from the mapped corridor.

§6-7-8.3 Modify the proposed Land Use Permit application and issue it for development as modified, with or without conditions, if the development can reasonably be accomplished on the subject parcel without encroaching on the reserved land.

§6-7-8.4 Delay action on the Land Use Permit for a defined period of time not to exceed six months for the purpose of any of the following:

(a) Negotiating with the property owner for the purchase of all or a part of the reserved land by the governmental agency responsible for the transportation facilities;

(b) Acquiring the reserved land voluntarily;
(c) Acquiring a negative easement over the reserved land that prevents the property owner from building on the reserved land; or,
(d) Taking the reserved land through eminent domain.

§6-7-9 AUTHORITY TO ACQUIRE FOR RESERVED LAND FOR PUBLIC USE

After delaying action on the Land Use Permit by the County [City], the local government or other governmental unit responsible for the transportation facilities may, but shall not be obligated to, negotiate for the voluntary dedication of the land, enter into option, or it may initiate condemnation proceedings subject to applicable state law and use its powers of eminent domain.

§6-7-10 FINAL ACTION ON THE LAND USE PERMIT

If the County [City] delays action on the Land Use Permit as provided by §6-7-8.4 and the governmental agency responsible for transportation facilities on the reserved land fails to arrange for the legal acquisition of all or a part of the reserved land within the specified time period which shall not exceed six months, then the County [City] shall approve the Land Use Permit, with or without conditions, or in the absence of such approval the Land Use Permit shall be deemed approved as submitted.

Commentary on Administrative Requirements for Implementation: A corridor map requires a comprehensive plan that designates future streets and linear transportation facilities. Therefore, a comprehensive plan with specific recommendations on future streets and linear transportation facilities should be considered a prerequisite. It requires coordination with the state transportation department if it is to include state highways and other linear transportation facilities. Procedures for adoption should generally follow minimum standards specified in the Zoning Procedures Act, including general notice in a newspaper of general circulation and holding a public hearing. Written notice to all owners of parcels of land involved in a future transportation corridor is also advisable.

References:

American Planning Association. 1998. Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change. Phases I and II Interim Edition. Chicago: American Planning Association.

Bair, Frederick H. 1979. Planning Cities. Chicago: Planners Press.

General Planning Enabling Legislation, State of Georgia. 1970. General Planning Enabling Act of 1957, including amendments through the 1970 General Assembly. Atlanta: Bureau of State Planning and Community Affairs.

Ndubisi, Forster O. 1992. Planning Implementation Tools and Techniques: A Resource Book for Local Governments. Athens, GA: Institute of Community and Area Development

§ 6-8 INTERIM DEVELOPMENT REGULATIONS

§ 6-8 INTERIM DEVELOPMENT REGULATIONS

Commentary About This Module*: The land just outside municipal city limits, or large, undeveloped areas inside a city, can be an attractive place to live. As development spreads out from the center of a city, it tends to decrease in density. Low land prices outside the city or large parcels inside the city allow very large lot residential development. By residing in unincorporated areas, the residents thereof avoid paying municipal property taxes. Yet their close proximity to the city may mean that those residents can avail themselves of city services, such as parks, fire protection, water supply, etc. Often, the residents of low-density unincorporated areas do not want to live inside the city because they can avoid paying city taxes if they remain in the unincorporated area (but perhaps enjoy certain city services). Residents of low-density fringe areas, whether unincorporated or incorporated, may not want development beside or near them, and they tend to oppose additional development at urban densities.*

Efforts by a city to ensure a compact, contiguous urban form in the future, as its city limits grow or as development occurs within the city, are often stymied by a low-density development pattern. The residents may oppose new development at urban densities. When allowed to occur, low-density subdivisions can prevent the logical extension of the established urban pattern in cities as annexation occurs or as development moves to the fringe within the city limits. Once low-density, suburban or exurban subdivisions occur, the pattern of property ownership is difficult if not impossible to change. The low-density subdivision pattern precludes urban development and forces urban-density development to "leapfrog" out past the low-density area, creating urban sprawl.

Interim development regulations are an important component of a package of policies designed to manage urban growth. They include tools to ensure that urban fringe lands can be developed at urban densities later, even if they might be developed in the "interim" for lower-density residential uses. They include among other tools: large-lot holding zones, minimum density requirements, restrictions on land partitions and agreements with land owners (ECO Northwest 1995).

Implementing interim development standards requires a high degree of intergovernmental coordination if they are intended to apply urban densities to unincorporated areas. If the future urban residential area is unincorporated (i.e., not in the city at this time), then this module would need to be adopted by the county. If this module is intended to apply only to large, undeveloped lands inside the city limits, then intergovernmental coordination is not required.

§ 6-8-1 PURPOSE AND INTENT

This Resolution [Ordinance] is intended to: establish a future urban residential growth area; protect land that is desired for future urban expansion; encourage the development of areas targeted for urban growth; and help ensure that land currently at the urban fringe will develop eventually at urban densities. It is also the intent of this Resolution [Ordinance] to allow some low-density development now without precluding future development with urban services at urban densities.

§ 6-8-2 DEFINITIONS

Future urban residential growth area: A parcel or a collection of parcels within the path of future urban residential development in the City of _____, whether incorporated or unincorporated, and which is planned for urban densities by the city and/or county according to a comprehensive plan.

Lot of record: A lot shown on a subdivision plat, which was recorded in the Office of the Clerk of Superior Court of _____ County, or a deed which was recorded in same, prior to the effective date of this Resolution [Ordinance].

Shadow plat: A conceptual development plan, drawn to specifications of a preliminary plat as described in Section 2-2 of this Code and approved by the local government, that guides the future development of land at full urban densities for which partial development is sought in the short-term. Shadow plats show the lots, blocks and streets necessary to attain future urban residential development at urban densities while allowing the placement of buildings and access in the interim.

Commentary: Local governments that have not adopted Section 2-2 should refer to their subdivision regulations instead of Section 2-2 of this Model Code.

ILLUSTRATIVE SHADOW PLAT:
Ten Acre Lot of Record With 34 Lots

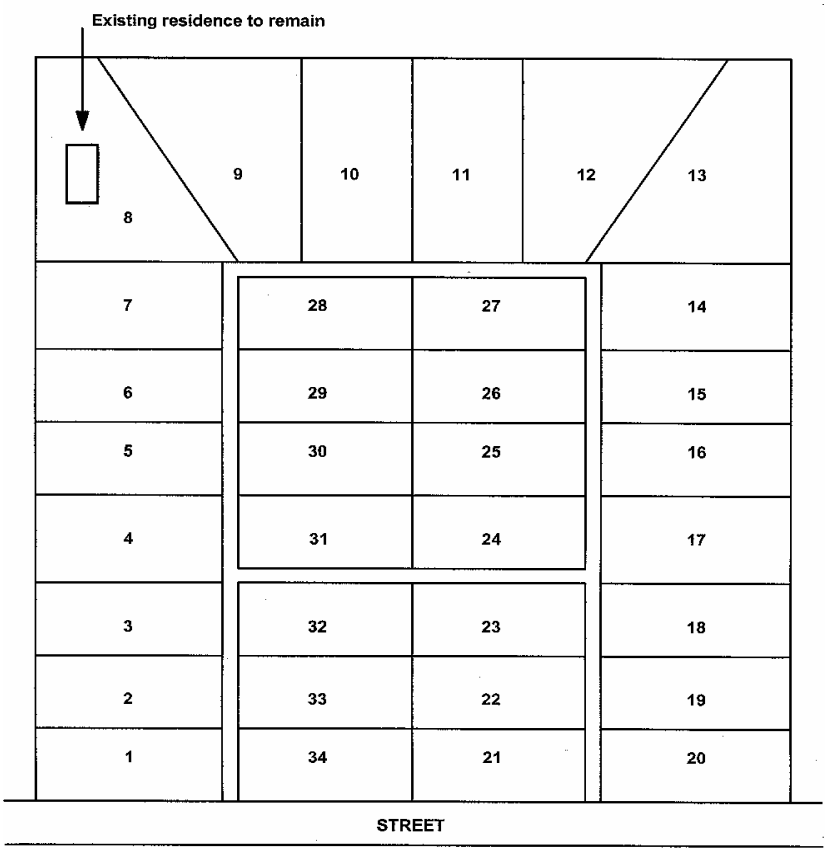


Figure 6-8-2

Non-urban densities: Residential development from 0.1 unit per acre to 2.99 units per acre.

Urban densities: Residential development with a minimum of at least three (3) units per acre, and a maximum of five (5) units per acre.

Commentary: Local governments should establish the density at the level (or range) recommended in the comprehensive plan.

§ 6-8-3 FUTURE URBAN RESIDENTIAL GROWTH AREA(S) ESTABLISHED

Pursuant to the comprehensive plan of the city, there is hereby established one or more future urban residential growth areas which are shown on the attached map and hereby made a part of this ordinance. Said map may be amended by the local government by following procedures specified in the Zoning Procedures Law, O.C.G.A. § 36-66.

§ 6-8-4 GENERAL PROVISION

No lot within the future urban residential growth area shall be subdivided or developed, except in conformity with this Resolution [Ordinance].

§ 6-8-5 URBAN DENSITY SUBDIVISION REQUIRED

Development on, or subdivision of, a lot of record within a future urban residential growth area shall at minimum achieve urban densities, except as provided for large lots pursuant to Section 6-8-6 or interim development permitted pursuant to Section 6-8-7 of this Resolution [Ordinance].

§ 6-8-6 EXISTING LOTS OF RECORD

§ 6-8-6.1 Development. Subdivisions with non-urban densities shall not be permitted on a lot of record within a future urban residential growth area, except as specifically provided in this Resolution [Ordinance]. A lot of record may be developed with a single family residence or according to the permitted uses for the land use intensity or zoning district in which it is located, provided that the house or other permitted use is sited at the edge of the lot or in a manner that provides for the subdivision into lots and dwellings or other uses at urban densities at a future point in time, as approved by the Land Use Officer.

§ 6-8-6.2 Subdivision. A lot of record within the future urban residential growth area may be subdivided into lots at urban densities, or it may be subdivided into large lots as permitted and described in Table 6-8-1 below, provided that on the subdivision plat, the subdivider shall indicate the building placement areas for houses or other permitted uses, which shall be sited at the edge of each lot or in a manner that provides for the addition of lots and dwellings or other uses at urban densities at a future point in time, as approved by the Land Use Officer.

Table 6-8-1
Non-Urban Subdivision Permitted

Size of Lot of Rec	Number of Lots Permitt ed Under

Any lot subdivided pursuant to this Section shall not again be subdivided except for urban densities in accordance with this Resolution [Ordinance].

Commentary: The required minimum lot size in Table 6-8-1 is intended to allow some flexibility to the land sub-divider, in the event that a perfectly equal allocation of land area to each lot would be problematic for whatever reason, such as a desire to make a lot conform to a stream or other natural boundary.

§ 6-8-7 SHADOW PLAT FOR INTERIM DEVELOPMENT

This Resolution [Ordinance] permits non-urban density development on lots of record in the future urban residential growth area, provided that urban densities can be achieved at a future point, and subject to the following requirements:

If a subdivision, development permit or building permit is proposed that does not meet the urban density requirements of this Resolution [Ordinance], the sub-divider, developer or builder, as the case may be, must present a shadow plat showing how the property

can be developed at urban densities. The shadow plat must be approved by the city's Land Use Officer, if the property is within the city limits, or by the county's Land Use Officer, if located in the unincorporated area. The Land Use Officer for the city or county shall not approve a shadow plat that does not meet urban densities. A shadow plat shall be required for any development on a lot of record other than one to be developed at urban densities or a large parcel that is permitted pursuant to Section 6-8-6 of this Resolution [Ordinance]. The design of the subdivision shown on the shadow plat shall provide for the future subdivision and access thereto so as to permit future development at urban densities.

§ 6-8-8 PUBLIC FACILITIES POLICIES

The municipality shall not extend public facilities to residential development in the future residential urban growth area unless it meets urban densities. Public facilities supplied by the developer to lands developed at non-urban densities must be provided with capacity and in a manner that fully accommodates future development at urban densities.

§ 6-8-9 ACKNOWLEDGMENT OF URBAN DENSITIES

At the time a subdivision plat, land use permit, building permit or occupancy permit is applied for in the future urban residential growth area for development at non-urban densities, applicants therefore shall be provided by the Land Use Officer with an acknowledgment form. Prior to action on, and as a condition of, the issuance of said subdivision plat, land use permit, building permit or occupancy permit, the applicant for said permit shall be required to sign an acknowledgment form prepared by the Land Use Officer. The acknowledgment form shall indicate that the applicant understands that urban densities are planned for the subject property. All such acknowledgment forms executed by a landowner shall be a public record.

Reference:

ECO Northwest. 1995. *Urban Growth Management Tools Technical Report*. Salem: Oregon Transportation and Growth Management Program.

§7-1 PROCEDURES

CONTENTS

§7-1 PROCEDURES

§7-1-1 AUTHORITY TO AMEND

The Governing Body may from time to time amend the number, shape, boundary, or area of the land use intensity district map, or it may amend any Resolution [Ordinance] or individual section of this code. The procedure for amending the land use intensity district map and amendment to any Resolution [Ordinance] or section contained in this code shall be as provided herein.

§7-1-2 INITIATION OF AMENDMENT

A petition to amend this code or the land use intensity district map, or an application for a conditional use permit, may be initiated by the Governing Body, the planning commission, or by any person, firm, or corporation owning property in the local jurisdiction. The property owner's permission is required before a petition for changing the land use intensity district map can be filed by anyone other than the governing body or the planning commission. Applications for amendment to the land use intensity district map or the text of this code shall be accompanied by payment of a filing fee as established by the Governing Body by Resolution [Ordinance] from time to time.

§7-1-3 PRE-APPLICATION CONFERENCE

Prior to the filing of any application to amend the text of this code, the land use intensity district map, or any other application pursuant to this code, applicants are encouraged to schedule and attend a pre-application conference with the Land Use Officer. The purpose of the pre-application conference is to provide applicants with the best available information regarding development proposals and processing requirements, and to ensure the availability of complete and accurate information for review of said application. Upon request of the applicant, the Land Use Officer shall provide the applicant with a written summary of the pre-application conference and list any specific documents, information, or other information that must be submitted to satisfy application requirements.

§7-1-4 MAP AMENDMENT APPLICATION REQUIREMENTS

Each application for a map amendment or conditional use permit shall be accompanied by a legal description of the property and a survey plat of the property, a letter of intent describing the proposed use of the property, an application form supplied by the Land Use Officer, a filing fee as specified from time to time by Resolution [Ordinance] of the Governing Body, and any other information as may be required by this code or as specified by the Land Use Officer to evaluate compliance with this code.

§7-1-5 COMPLETE APPLICATION

Any application for action under this code must be complete before it shall be accepted for processing. Upon receipt of all application materials, the Land Use Officer shall find the application complete and schedule it for hearing, where required, and consideration.

§7-1-6 PUBLIC HEARING

Within no more than 60 days after the filing of a complete application for which a hearing is required by this code, a public hearing shall be held on such applications before the appropriate body as required by and in accordance with this code, before taking action on a proposed application.

§7-1-7 PUBLIC HEARING NOTICE

For any proposed text amendment to this code, any application for a map amendment, and any application for a conditional use permit, a public notice shall be published in a newspaper of general circulation in the local jurisdiction at least 15 days, but not more than 45 days prior to the scheduled public hearing. Such notice shall state the purpose, location, time and date of the public hearing, and the nature of said application. For map amendments initiated by a party other than the County [City], the public notice shall specifically include the location of the property, the current use district classification of the property, and the proposed use district classification of the property. For conditional use applications, the public notice shall specifically include the proposed use of the subject property and the current use district classification of the property.

Commentary: It is important not to require notice of the location of the property for applications initiated by the local government, as it may cover a large territory, possibly the whole jurisdiction. Specifying location in such cases would be problematic.

§7-1-8 PUBLIC NOTICE SIGN ON SUBJECT PROPERTY

Whenever a map amendment or an application for conditional use is proposed by a party other than the County [City], the Land Use Officer shall post a sign not less than 15 days prior to the

date of the public hearing in a conspicuous place on said property, which shall be not less than 12 square feet in area, and which shall contain information as to the proposed change and the date, time and location of the public hearing before the Public Hearing Body. For map amendments, the sign shall specifically include the current use district classification of the property and the proposed use district classification of the property. For conditional use applications, the sign shall specifically include the proposed use of the subject property and the current use district classification of the property.

§7-1-9 CRITERIA TO CONSIDER FOR MAP AMENDMENTS

In reviewing, recommending, and acting upon applications for map amendments, the Land Use Officer, the Planning Commission, and the Governing Body shall consider the following criteria for approval, conditional approval, or disapproval as appropriate:

§7-1-9.1 Compatibility with Adjacent Uses and Districts. Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.

§7-1-9.2 Property Value. The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.

§7-1-9.3 Suitability. The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification of the property.

§7-1-9.4 Vacancy and Marketing. The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.

§7-1-9.5 Evidence of Need. The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.

§7-1-9.6 Public Facilities Impacts. Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities and services.

§7-1-9.7 Consistency with Comprehensive Plan. Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.

§7-1-9.8 Other Conditions. Whether there are any other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

§7-1-10 CRITERIA TO CONSIDER FOR CONDITIONAL USES

In reviewing, recommending, and acting upon applications for conditional uses, the Land Use Officer, the Planning Commission, and the Governing Body shall consider the following criteria for approval or disapproval as appropriate.

(a) Access to the site is appropriate considering the anticipated volume of traffic resulting from the use

(b) The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.

(c) Hours and manner of operation of the proposed use are not inconsistent with the adjacent or nearby uses.

(d) Public facilities and utilities are capable of adequately serving the proposed use.

(e) The proposed use will not have a significant adverse effect on the level of property values or the health, safety and general welfare and character of adjacent land uses or the general area.

(f) The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.

(g) The proposed use is consistent with the goals and objectives of the comprehensive plan.

(h) Whether or not all pertinent and applicable requirements of this code, as well as all applicable state and federal laws have been met.

(i) Any other factors deemed relevant to the Land Use Officer, Planning Commission, or Governing Body.

§7-1-11 STAFF INVESTIGATION AND REPORT

The Land Use Officer shall make an investigation of the application and shall prepare a report thereon, considering applicable criteria specified herein. Said investigation shall be submitted to the Planning Commission and Governing Body, in cases where they have a role in the application as specified herein. Said investigation shall also be made available to the applicant prior to any public hearing scheduled on the matter or in cases where a public hearing is not required, within a reasonable time period prior to action.

§7-1-12 PLANNING COMMISSION REVIEW AND RECOMMENDATION

The Planning Commission shall consider all applications to the text of this code, applications to amend the land use intensity district map, and applications for conditional use permits. It shall render a recommendation to the Governing Body on all such applications, and the Planning Commission's action and recommendation shall be only advisory. The Planning Commission shall hold a public hearing on all such specified applications and shall conduct its review in accordance with the procedures established herein. The Planning Commission may recommend approval, approval with conditions, or denial of the application. The Planning Commission shall render a recommendation following the close of the public hearing or within 32 days after the public hearing on the application has been held. The Land Use Officer shall notify the applicant in writing of the Planning Commission's action or recommendation within five days of the conclusion of the public hearing and within five days of its recommendation, if not made at the public hearing.

§7-1-13 PROCEDURES FOR CONDUCTING PUBLIC HEARINGS

This section establishes procedures which shall, unless the context specifically indicates otherwise, be applicable to the Board of Commissioners [Mayor and City Council] and Planning Commission (hereafter referred to as the "Public Hearing Body") in the conduct of all public hearings. Public hearings as are herein required shall be governed by the following policies and procedures for conducting public hearings, and the Public Hearing Body shall follow such policies and procedures for the conduct of public hearings, except in cases where it is prudent to dispense with formalities in such cases where due process of the applicant or interested parties will be unaffected. Nothing contained herein shall be construed as prohibiting the Public Hearing Body from conducting the public hearing in an orderly and decorous manner to assure the public hearing on a proposed application is conducted in a fair and orderly manner. These rules shall be public record and shall be made available at the public hearing.

Commentary by Legal Counsel: Legal counsel advises that the procedures for public legislative hearings by the local government or planning commission should not apply to the Board of Appeals which is conducting an administrative hearing rather than a legislative hearing. The same is true if the planning commission, instead of the Board of Appeals, is conducting an administrative hearing, such as a variance hearing. Legal Counsel recommends that the ordinance provide that the Board of Appeals or the Planning Commission, as the case may be, has the authority to establish their own procedures for conducting a hearing. This can be done because the adoption of rules for administrative hearings is not required to follow the rigorous procedures under the Zoning Procedures Act.

Commentary (alternative view to Legal Counsel): It may not be necessary to apply public hearing procedures to the Board of Appeals, as Counsel cautions. However, the Board of Appeals, or the planning commission (whichever is holding a quasi-judicial or administrative proceeding with regard to a variance) is nonetheless required to hold a public hearing. Public hearing procedures are different from administrative or quasi-judicial proceedings. In the case of a variance, the Board of Appeals or other body is required to, in essence, do both, hold a public hearing, and then proceed with determining the facts and applying the law. Hence, it seems that such boards need to have adopted public hearing procedures to provide fairness to applicants and interested individuals that speak at the public hearing portion of the meeting. It is true that the Board of Appeals could simply adopt their own procedures, which may differ from

the public hearing procedures in this module. However, appeals boards in small, rural local governments might fail to take such action and as a result never adopt separate rules of procedure, for public hearings or for administrative proceedings. Hence, it makes sense, despite the inherent risk identified by Legal Counsel to have the public hearing procedures of this chapter apply to boards of appeals.

§7-1-13.1 Call of Hearing. The presiding officer of the Public Hearing Body shall indicate that a public hearing has been called for the consideration of said applications. Thereupon, the Public Hearing Body shall consider each application on an individual basis in the order of the published agenda or as otherwise called by the presiding officer.

§7-1-13.2 Report by Land Use Officer. The presiding officer shall call upon the Land Use Officer or other appropriate staff to make a report, if any, concerning the proposed application. The Land Use Officer or other appropriate staff shall then give the report, if any, for said application.

§7-1-13.3 Presentation by Applicant. The presiding officer shall call on the applicant or applicant's agent who shall present and explain his application. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality, and/or general welfare.

§7-1-13.4 Determination of Interested Parties. Following the applicant's presentation, the presiding officer may ask for a show of hands of those persons who wish to appear in support of or opposition to the petition. If it appears that the number of persons wishing to appear in support of or opposition to the petition is in excess of that which may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations. Proponents and opponents of each decision shall have at least 10 minutes to present data, evidence and opinions on the proposed application.

§7-1-13.5 Public Testimony. Prior to speaking, each speaker will identify him or herself and state his or her current address. Each speaker shall speak only to the merits or liabilities of the proposed application under consideration and shall address his or her remarks only to the Public Hearing Body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration.

The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate these procedures.

§7-1-13.6 Applicant's Rebuttal. After public testimony, the applicant or applicant's agent shall be allowed a short opportunity for rebuttal and final comment.

§7-1-13.7 Close of Public Hearing. After the above procedures have been completed, the presiding officer will indicate that the public hearing is formally closed, and the public hearing shall not be reopened except upon formal vote of the Public Hearing Body; provided, however, that this provision shall not require the closure of a public hearing where at the discretion of the Public Hearing Body the hearing should be continued at a later time or date.

§7-1-13.8 Recess of Hearing. The Public Hearing Body, for any reason it deems necessary or desirable, may recess or continue a hearing. Upon recessing or continuing a hearing, the Public Hearing Body shall announce the time, date and place when the hearing or hearings will be resumed and such public announcement shall be considered sufficient notice thereof to all persons.

§7-1-13.9 Vote. After the public hearing is closed, the Public Hearing Body may vote upon the proposed application. Prior to voting, the Public Hearing Body shall consider evidence and public testimony presented at the public hearing, and the Public Hearing Body shall apply the evidence to the applicable criteria specified in this code for said application. It will not be required that the Public Hearing Body consider every criteria contained in this code, except for variances where all criteria for approving variances must be met. At such public hearings as herein required to be held by the Board of Commissioners [Mayor and City Council], the Board of Commissioners [Mayor and City Council] may enact an ordinance granting the application, or may by motion deny the application at the conclusion of the public hearing, or within a specified time thereafter. If the Board of Commissioners [Mayor and City Council] determines from the evidence presented that the applicant has shown that the proposed application is consistent the applicable criteria for said application, the application shall be granted and such approval may be subject to those reasonable conditions as may be imposed by the Board of Commissioners [Mayor and City Council.

§7-1-14 WITHDRAWAL OF APPLICATION

Any petition for an amendment to the text of this code, to amend the land use intensity district map, or for a conditional use permit may be withdrawn at any time prior to the public hearing on said application by the person or entity initiating such a request, upon written notice to the Land Use Officer. In the event of such withdrawal, no filing fee for said application would be refunded by the County [City].

§7-1-15 LIMITATION ON NEW APPLICATIONS

In a case where an application for text amendment to this code, application for map amendment, or application for conditional use is denied by the Governing Body, or in the case of a variance application that has been denied by the Board of Appeals, the same or substantially similar application shall not be eligible for resubmittal and reconsideration until six months has elapsed from the date of said denial.

§7-2 BOARD OF APPEALS AND VARIANCES

CONTENTS

§7-2 BOARD OF APPEALS AND VARIANCES

§7-2-1 PURPOSE

These regulations establish a Board of Appeals and provide a mechanism for relief in an individual case where certain dimensional requirements of this code pose undue hardship. These regulations also provide for appeals from actions of the Land Use Officer in the administration, enforcement, and interpretation of this code. The grant of authority and powers delegated by the Governing Body is limited to the provisions herein and shall be sparingly used by the Board of Appeals.

§7-2-2 BOARD OF APPEALS

A Board of Appeals is hereby established. Said board shall consist of five voting members, who are residents and registered voters of the County [City], each of whom shall serve for terms of three years without compensation. None of the members of the Board of Adjustment shall be a member of the Governing Body, but one member of the Planning commission may serve on the Board of Appeals. The board members shall be appointed by the Chairman of the Board of Commissioners [Mayor] with the approval of the Board of Commissioners [City Council]. In case any vacancy should occur in the membership of the board for any cause, the Chairman of the Board of Commissioners [Mayor] shall fill such vacancy by making an appointment for the unexpired term with the approval of the Board of Commissioners [City Council]. Any members

of the board may be removed by the Chairman of the Board of Commissioners [Mayor] for due cause or upon expiration of term, subject to the approval of the Board of Commissioners [City Council].

§7-2-3 MEETINGS

The Board of Appeals shall adopt rules of procedure as are necessary to carry out the purposes of its authority. The Board shall establish a regular meeting date and time for its meetings; however, meetings shall be held only on an as-needed basis and shall be open to the public. The Board shall appoint a secretary, who shall be the Land Use Officer unless otherwise designated, to record the minutes of its proceedings, showing the action of each board member upon each question. The Board shall keep records of its examinations and other official actions, all of which shall be filed with the County [City] Clerk and be public records. The Land Use Officer shall serve as the advisor to the Board, except in cases of an appeal from a decision of the Land Use Officer. The Board may adjourn any public hearing or meeting in order to obtain additional information, or to serve further notice upon such other property owners as it decides may be interested in the application or appeal; provided however, that the Board shall act on all applications within 64 days of the date the initial public hearing on the matter was scheduled.

§7-2-4 AUTHORITY TO GRANT VARIANCES

The Board of Appeals is authorized to receive, consider, grant, grant with conditions, or deny applications for variances to the dimensional requirements of this code, after a public hearing and after making written findings of fact that the conditions for variances specified herein have been fulfilled. In granting a variance, the Board may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth herein, as may be deemed necessary for the protection of adjacent properties and the public interest. Decisions of the Board of Appeals shall be final; there shall be no appeal to the Board of Commissioners [Mayor and City Council], but the applicant aggrieved by a decision of the Board of Appeals may pursue appeals to the Courts of proper jurisdiction of the State of Georgia as provided by law.

§7-2-5 VARIANCE APPLICATIONS

A property owner or his authorized agent may initiate a request for variance by filing an application with the Land Use Officer. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The Land Use Officer may require other drawings or materials essential to an understanding of the proposed use and variance requested and its relationship to the surrounding properties. A fee shall accompany variance applications as established by the Governing Body by Resolution [Ordinance] from time to time.

§7-2-6 CONDITIONS AND CRITERIA FOR GRANTING A VARIANCE

The Board of Appeals, in cases where specifically authorized, may grant a variance only after consideration and adoption of findings of fact that all of the following conditions exist and criteria are met.

§7-2-6.1 There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or use district, and such conditions are not the result of the owner's or occupant's own actions. Such conditions may include topography, unique natural conditions, surroundings of the subject property, or the size or peculiar shape of the lot.

§7-2-6.2 As a result of such unusual circumstance or conditions, there is an unnecessary hardship or practical difficulty that renders it difficult to carry out the provisions of this code.

§7-2-6.3 The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located, and the variance will be in harmony with the general purposes and intent of the provisions of this code.

§7-2-6.4 The variance approved is the minimum variance that will make possible the legal use of the land, building or structure.

§7-2-6.5 The variance does not permit a use of land, building or structure which is not permitted by right in the land use intensity district in which the proposed development is located.

§7-2-7 STAFF INVESTIGATION AND REPORT

The Land Use Officer shall make an investigation of all variance applications and shall prepare a report thereon, considering applicable criteria specified herein. Said investigation shall be submitted to the Board of Appeals. Said investigation shall also be made available to the applicant prior to any public hearing scheduled on the matter. This provision shall not apply to appeals of administrative decisions of the Land Use Officer.

§7-2-8 APPEALS OF ADMINISTRATIVE DECISIONS

Any person who alleges there is an error in, or who is aggrieved by a decision of the Land Use Officer in the administration, enforcement, and/or interpretation of this code, may file an appeal with the County [City] Clerk stating the grounds for such appeal. The Board of Appeals is hereby authorized to hear and decide said appeals, after proper application, public hearing and adoption of relevant findings of fact.

An appeal from a ruling of the Land Use Officer shall stay all proceedings in furtherance of the action being appealed. The Board may affirm, overrule or modify, in whole or in part, the rulings of the Land Use Officer. In cases where an appeal is granted, the Board shall have all necessary powers of the Land Use Officer and may issue building permits and land use permits, or direct the issuance of building permits and land use permits not otherwise inconsistent with this code and any other code, resolution, or ordinance adopted by the Governing Body.

§7-2-9 NOTICE AND HEARING

Upon the filing of any complete application for a variance with the Land Use Officer, or upon the filing of any complete application for appeal with the County [City] Clerk, a public hearing shall be scheduled and held on the proposed variance or appeal. Notice of the public hearing shall be given and the public hearing shall be conducted as provided for in Section 7-1 of this code.

§7-2-10 ACTION ON VARIANCES AND APPEALS

The Board shall make findings and render a decision in writing within 32 days after the initial public hearing on the proposed variance or appeal. The Board's Secretary shall notify the applicant, in writing, of its decision within five days after the Board has rendered its decision.

§7-3 PLANNING COMMISSION

CONTENTS

§7-3 PLANNING COMMISSION

Commentary: The local planning commission is almost a given for most cities and counties that enforce land subdivision regulations and other land use regulations. Planning commissions act as a buffer between citizens and elected officials. The 1957 Planning and Zoning Enabling Act authorized the establishment of local planning commissions. However, with the adoption of constitutional powers to plan and zone, local governments are no longer bound by the 1957 act. In fact, the 1957 Enabling Act has been stricken from the law books and is no longer valid; nonetheless, it has provided the foundation for the composition and functions of most local planning commissions as they exist in Georgia today.

Commentary: Although most local governments have already established a planning commission, some have not but will need to in order to administer portions of this model code. It is not essential to establish a planning commission to administer this code; one option is to establish a hearing examiner (see Section 7-4 of this model code). However, the American Planning Association's "Growing Smart" project recommends in its Legislative Guidebook that statutes require the establishment of a local planning commission. This model ordinance for establishing a planning commission is based upon recommendations in the Growing Smart Legislative Guidebook, and on provisions of the old 1957 Planning and Zoning Enabling Act.

§7-3-1 CREATION AND APPOINTMENT

There is, hereby, established a county [municipal] planning commission. The planning commission shall be composed of five members who shall be residents of the local jurisdiction and who shall be appointed by the Local Governing Body. Members of the commission shall be appointed for overlapping terms of three years and shall serve until their successors are appointed. Original appointments may be made for a lesser number of years so that the terms of said members would be staggered. The Local Governing Body shall determine the

compensation of the members, if any. Any vacancy in the membership of the planning commission shall be filled for the unexpired term in the same manner as the original appointment. The Local Governing Body may remove any member of the planning commission for due cause after written notice and a public hearing.

Commentary: The number of members on a planning commission is a local choice. It is recommended that the planning commission includes at least five members, and many planning commissions today consist of seven members. The number of years a planning commissioner may serve is also a local choice. The local residency requirement is not found in the 1957 Enabling Act. Some local governments appoint "alternate" members. The appointment of alternate members helps achieve a quorum in some cases, but it is not recommended because the position is voluntary, usually without pay, and "alternate" members would need to regularly attend meetings of the commission but should not be reasonably expected to attend such meetings when they are not authorized to vote. Yet another variation of planning commission appointments in practice (one not reflected in this model code) is the appointment of one member each, by each local elected official residing in and appointed from the district represented by the elected official making the appointment.

Commentary on alternatives. The Growing Smart Legislative Guidebook (American Planning Association) provides three options for the composition of a planning commission: (1) a commission consisting of all appointed citizen members; (2) a commission consisting of appointed members; and (3) a commission consisting of appointed members, the local government's administrative officials, and elected officials. Option 1 is recommended, though not specified, in this model code. Some local governments in Georgia designate the Local Governing Body itself as the planning commission, a practice which is not recommended, only because local governing bodies have such a wide range of other duties and hence, probably have insufficient time to devote to comprehensive planning matters. Local governments that wish to limit the planning commission to citizen members only might add the following language: "No member of the planning commission shall be an employee or elected official of the local government."

Commentary on compensation of planning commissioners. Most local jurisdictions do not compensate planning commissioners, except perhaps for travel expenses related to their duties. Compensating planning commissioners on a "per meeting" basis may result in abuse, as

planning commissioners may have an incentive to hold unnecessary meetings (American Planning Association).

§7-3-2 ORGANIZATION, RULES, STAFF, AND OFFICERS

The planning commission shall elect one of its appointed members as chairman who shall serve for one year or until he or she is reelected or his or her successor is elected. A second appointed member shall be elected as vice chairman, and he or she shall serve for one year or until he or she is reelected or his or her successor is elected. The planning commission shall appoint a secretary who may be an officer or an employee of the Local Governing Body or of the planning commission. At least three members must be present and voting to constitute a quorum.

§7-3-3 MEETINGS

The planning commission shall set a regular monthly meeting time and place and meet at such other times as the chairman or commission may determine; provided, however, that this provision shall not be construed as requiring the planning commission to meet when it has no regular business to transact.

§7-3-4 RECORDS

The planning commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, determinations, and recommendations, which shall be a public record.

§7-3-5 FUNCTIONS AND DUTIES

The planning commission is hereby vested with the following powers and duties. The mere authorization to undertake these functions shall not be considered a mandate for the planning commission to perform all of these functions, nor shall it prohibit the discretion of the Local Governing Body, by law or resolution, from assigning one or more of these functions to a staff member of the local government, or to another agency or commission. The mission of the planning commission shall be to make such careful and comprehensive surveys and studies of

existing conditions and probable future developments and to prepare such plans for the physical, social, and economic growth as will best promote the public health, safety, morals, convenience, prosperity, and/or general welfare, including efficiency and economy in the development of its jurisdiction. In particular, the planning commission shall have the power and duty perform the following.

(a) Cooperate with the Federal, State, or local, public or semi-public agencies or private individuals or corporations, and carry out cooperative undertakings with said agencies, individuals, or corporations.

(b) Prepare a comprehensive plan or parts thereof, or cause to be prepared such plan or parts thereof, for the development of the local jurisdiction or parts thereof, which shall be subject to the approval of the Local Governing Body in accordance with the Georgia Planning Act of 1989, as may be applicable.

(c) Prepare and recommend for adoption by the Local Governing Body a zoning ordinance or resolution, regulations for the subdivision of land, and any other land use regulations appropriate to manage development in the jurisdiction.

(d) Administer zoning and other land use regulations in whatever role is delegated to it by the Local Governing Body. To this end, the planning commission may review applications for zoning map amendments or applications for land use approval and provide a recommendation to the Local Governing Body. However, the planning commission shall not be delegated any legislative authority such as the final approval of zoning map amendments or conditional or special uses.

(e) Review and approve subdivision plats; provided, however, that if the planning commission is given authority to grant approval of final plats, said approval shall not constitute acceptance of public improvements which is a power reserved by the Local Governing Body.

(f) Prepare and recommend for adoption to the Local Governing Body, a plat or plats, or a corridor map or maps, showing the location of the boundary lines of existing, proposed, extended, widened or narrowed streets and linear open spaces and recreational areas, together with regulations to control the erection of buildings or other structures within such lines, within the local jurisdiction or a specified portion thereof.

(g) Make, publish, and distribute maps, plans and reports and recommendations relating to the planning and development of the local jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens.

(h) Recommend to the Local Governing Body or its executive programs for capital improvements and the financing thereof.

(i) Exercise, in general, such other powers as may be necessary to enable it to perform its functions and promote the planning of its local jurisdiction.

Commentary: The Planning and Zoning Enabling Act of 1957 provided certain additional authorizations that have not been included here. The 1957 Act authorized planning commissions to hire personnel, expend budgets, and undertake certain other functions that are normally not given to planning commissions in practice. The 1957 Act, which was based largely on the standard model act of the 1920s, was intended to provide some independence and autonomy on the part of the planning commission so that it would not be captured by local politics. It does not seem necessary to grant planning commissions those powers, given conventional practices in Georgia today.

§7-4 HEARING EXAMINER

CONTENTS

§7-4 HEARING EXAMINER

Commentary: This code provision establishes a hearing examiner and specifies the categories of land use matters the hearing examiner can hear. The hearing examiner may serve as an alternative to either a board of appeals (Section 7-2), or a planning commission (Section 7-3), or both.

§7-4-1 CREATION AND APPOINTMENT

There is hereby established a county [municipal] hearing examiner. The Board of Commissioners [Mayor and City Council] shall appoint the hearing examiner by Resolution [Ordinance] for a fixed term that may be renewed at the discretion of said Board [Mayor and City Council]. The Resolution [Ordinance] shall set the compensation of the hearing examiner that may be on a “per application,” “per meeting” or on an "hourly basis." There shall be no specific qualifications for the hearing examiner, although the Board of County Commissioners [Mayor and City Council] shall broadly solicit applications for the appointment and shall consider professional credentials that will qualify a person to serve as hearing examiner. The hearing examiner may be removed by the Local Governing Body, with or without cause, subject to contractual provisions that may specifically apply to the appointment and removal of a hearing examiner.

Commentary: The American Planning Association’s Legislative Guidebook does not specify qualifications of a hearing examiner. Typically, the hearing examiner is an attorney, because of their familiarity with quasi-judicial and judicial legal proceedings. While an attorney might be favored for this reason, other professionals may have the experience and professional qualifications to serve as a local hearing examiner. Because of the need to have a professionally qualified hearing examiner, the person appointed to the position of hearing

examiner should not have to be a resident of the local jurisdiction (i.e., a residency requirement should not be established for the hearing examiner). Where hearing examiner systems exist, the Local Governing Body typically contracts with a professional on a fixed fee basis (probably hourly in most cases).

§7-4-2 SECRETARY

The hearing examiner shall appoint a secretary who may be an officer or an employee of the local government that it serves.

§7-4-3 MEETINGS

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

§7-4-4 RECORDS

The hearing examiner shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, determinations, and recommendations, which shall be a public record.

§7-4-5 FUNCTIONS AND DUTIES

Commentary: The hearing examiner may have the authority to administer zoning and other land use regulations in whatever role is delegated to them by the Local Governing Body. The hearing examiner may review applications for zoning map amendments or applications for land use approval and provide a recommendation to the Local Governing Body, but cannot be delegated legislative powers. The hearing examiner may be given authority to serve in the function conventionally assigned to a Board of Appeals. If so, the hearing examiner would have final authority to hear and decide variances to the requirements of this code and to hear and decide appeals of the decisions and interpretations of the Land Use Officer. The hearing

examiner could also be assigned responsibility for the review and approval of preliminary and/or final subdivision plats.

(j) Review applications for zoning map amendments or applications for land use approval and provide a recommendation to the Local Governing Body; provided, however, that the hearing examiner shall not be delegated any legislative authority such as the final approval of zoning map amendments or conditional or special uses.

Commentary: This is a function normally assigned to a planning commission. If the local government elects to assign these functions to a planning commission, then the above provision should be deleted. Also see prior commentary in Section 7-3 as to why a planning commission may be preferred in the conduct of these functions.

(k) To review and approve subdivision plats; provided, however, that if the hearing examiner is given authority to grant approval of final plats. Said approval shall not constitute acceptance of public improvements that is a power reserved by the Local Governing Body.

Commentary: This is a function normally assigned to a planning commission. If the local government elects to assign these functions to a planning commission, then the above provision should be deleted.

(c) The hearing examiner is authorized to receive, consider, grant, grant with conditions, or deny applications for variances to the dimensional requirements of this code, after a public hearing and after making written findings of fact that the conditions for variances specified herein have been fulfilled. In granting a variance, the hearing examiner may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth herein, as may be deemed necessary for the protection of adjacent properties and the public interest. Decisions of the hearing examiner shall be final; there shall be no appeal to the Board of Commissioners [Mayor and City Council], but the applicant aggrieved by a decision of the hearing examiner may pursue appeals to the Courts of proper jurisdiction of the State of Georgia as provided by law.

Commentary: This is the same language as used in Section 7-2-4 of this model code, except that "hearing examiner" is substituted for "Board of Appeals." Granting variances and deciding appeals are functions normally assigned to a Board of Appeals. If the local government elects to assign these functions to a Board of Appeals, then the above provision should be deleted. Although not specifically enabled by Georgia law, and even though a hearing examiner system has not been implemented by a local government in Georgia, establishment of a hearing examiner with authority to grant variances and decide appeals is recommended in lieu of establishing a Board of Appeals. The primary reason for this recommendation is that a hearing examiner is highly qualified to conduct quasi-judicial proceedings (i.e., court-like activities) of hearing evidence, determining facts, and applying the law. In fact, an appointed appeals board will almost assuredly not have the kind of professional experience that a hearing examiner can bring to a local government. Hence, the hearing examiner provides a viable alternative to appeals boards, who often do not follow their own procedures or decision criteria and who often need to "clean up their act" (Hawbaker 1982). Local governments that establish a hearing examiner in lieu of a Board of Appeals should include in this code section various provisions relative to variances in their code (see Section 7-2), either in that provision (without referencing a Board of Appeals) or by moving appropriate provisions to this code section.

Legal Commentary: To be sure that all the powers and duties are authorized by law, it is recommended, if the local government elects to utilize a hearing examiner, that the hearing examiner be substituted for the Board of Appeals in §7-2.

§7-5 INTERGOVERNMENTAL AGREEMENT FOR SERVICES

CONTENTS

§7-5 INTERGOVERNMENTAL AGREEMENT FOR SERVICES

Commentary: Research undertaken for Task 1 of this project found that there were rich opportunities for local governments to share personnel in areas of code enforcement, building inspection, and planning and land use regulation. Because the audience (intended user) of this model code is small cities and rural counties that are typically short on staff in these functional areas, this section provides a model intergovernmental agreement that can be mutually adopted by a service provider and a recipient of service. This module is based primarily on a model multi-jurisdictional agreement for code services, but it has been modified to include the possibility of other services as well. In most cases, it is anticipated that a county staff will be the service provider and will agree to provide certain services in a small city that does not have the volume of workload to justify hiring its own personnel; however, this is not necessarily the case. A city could very well be a provider of service to a county. Moreover, the service providers are not necessarily limited to another city or county—a regional development center may in some instances be able to provide certain services.

Commentary: This module is formatted as a code section for purposes of consistency with the rest of the code. However, since this module would not be part of an adopted code, the section numbers should be deleted or changed as appropriate.

Commentary: It must be recognized that any agreement is an exercise in negotiation, and that the provisions here are suggested as a basis of departure. It is impossible to present a model

agreement that will accurately account for the many local conditions that will need to be factored into the agreement.

WHEREAS, _____ County [City of _____], hereafter referred to as "service recipient," is desirous of procuring certain services from _____, hereafter referred to as "service provider," and
WHEREAS, the _____ is willing to perform such services on the terms and conditions hereinafter set forth; and
WHEREAS, both parties hereto are authorized to enter into this agreement; and
NOW, THEREFORE, it is agreed as follows:

§7-5-1 SCOPE OF SERVICES

§7-5-1.1 Building and Construction Code Administration. The service provider agrees, through its building inspection department, to perform within the city limits of _____ [unincorporated areas of _____ County] all functions performed by said department. The service provider may do additional work related to inspection of buildings and structures, when requested to do so in writing by the service recipient. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the following minimum codes as adopted by the State of Georgia. The service provider shall also administer, inspect for compliance, and enforce any local amendments thereto, which have been adopted by the service recipient, if such amendments are provided in writing to the service provider.

(a) SBCCI Standard Building Code (1994 edition).
(b) National Electrical Code (1999 edition).
(c) SBCCI Standard Gas Code (International Fuel Gas Code) (2000 edition).
(d) SBCCI Standard Mechanical Code (International Mechanical Code) (2000 edition).
(e) CABO One and Two Family Dwelling Code (1995 edition).
(f) SBCCI Georgia State Energy Code for Buildings (CABO Model Energy Code) (1995 edition).
(g) SBCCI Standard Fire Prevention Code (1994 edition).
(h) Standard Plumbing Code (International Plumbing Code) (2000 edition).

Commentary: The list of codes should be updated as the state adopts different versions. This list is believed to be accurate as of December 2001. Also, if a local government chooses not to

enforce one or more of these codes, reference to them should be deleted from this section of the agreement.

§7-5-1.2 Code Enforcement Services. The service provider agrees, through its code enforcement services division, to perform within the city limits of _____ [unincorporated areas of _____ County] all functions performed by said division. The service provider may do additional work related to inspection of code violations when requested to do so, in writing, by the service recipient. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the following codes:

[insert list of codes]

Commentary: The agreement should specify in detail the names of codes to be administered and enforced by the service provider.

§7-5-1.3 Land Use Regulation Services. The service provider agrees, through its planning department, to perform within the city limits of _____ [unincorporated areas of _____ County] all functions performed by said division. The service provider may do additional work related to the administration of land use regulations when requested to do so, in writing, by the service recipient. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the following regulations.

(a) Zoning [or land use intensity district] ordinance.
(b) Land subdivision and land development regulations.
(c) Flood hazard prevention regulations.
(d) "Part V" environmental planning criteria.
(e) Soil erosion and sedimentation control ordinance.
(f) Tree protection regulations.
(g) Sign ordinance.

Commentary: The above list is representative of the types of regulations that might be administered under an intergovernmental service agreement. This listing should be modified as appropriate to specify in detail the names of all regulations to be administered and enforced by the service provider.

§7-5-2 DESCRIPTION OF SPECIFIC SERVICES

In connection with the scope of services, the service provider shall perform the following specific services.

(a) Administrative application processing. Consult with applicants; receive applications; review applications for completeness and compliance with regulations; collect fees for applications; notify applicants of disposition.

(b) Discretionary applications. Forward applications involving discretionary approval by a board, commission, or agency (e.g., governing body, planning commission, board of appeals, building board of appeals, etc.) to said boards, commissions, or agencies with jurisdiction, as appropriate with findings, comments and/or recommendation to boards, commissions, or agencies; attend meetings of said boards, commissions, or agencies with jurisdiction to prevent findings, comments and/or recommendations; notify applicants of disposition.

(c) File maintenance. Keep and maintain official files for all applications processed under the terms of this agreement. Process open records requests associated with any such files. This includes the updating of any maps, such as a land use intensity district map, in connection with these services.

(d) Field work. Inspect buildings, properties, and sites as necessary in connection with services.

(e) Enforcement. Prepare evidence necessary in the prosecution under codes and ordinances. Attend court or other enforcement proceedings and administer or assist with proceedings; notify violators of disposition.

(f) Other. Other duties and obligations necessarily implied in connection with the performance of these tasks.

§7-5-3 AUTHORIZATIONS

The service provider shall have all the powers and duties of the Land Use Officer, Building Official, and Code Enforcement Officer of the service recipient as provided in adopted codes and regulations.

The service provider shall be authorized to collect application and permit fees as established in adopted codes and ordinances, or as adopted by Resolution [Ordinance] of the service recipient. This provision shall not authorize the service provider to charge a fee that has not

been established per Resolution [Ordinance] of the service recipient. The service provider shall be authorized to collect any fines levied by a court of law as a result of enforcement activities in connection with the services provided. Any such fees or fines collected by the service provider shall be deposited in accounts of the service recipient, not the service provider.

Commentary: Legal Counsel advises that only the local government as provided by contract should pay the service provider. All fees and fines should be deposited in the local government coffers, not kept by the service provider.

§7-5-4 OBLIGATIONS OF SERVICE RECIPIENT

The service recipient agrees to provide the following to the service provider.

(a) All maps, ordinances and codes to be administered and enforced, including incidental application forms, maps, administrative guides, and so forth.

(b) Furnish working space to perform said services, including quarters, a public permit counter, furnishings, utilities, and janitorial services. Alternatively, if no existing space is available in the quarters of the service recipient, the service recipient shall reimburse the service provider for the costs of securing appropriate working space, furnishings, utilities, and janitorial services. Any equipment or furniture provided by the service recipient to the service provider shall remain the property of the service recipient.

(c) Payment within 60 days of any deficit between expenditures by the service provider for services and the total revenues collected for said services by the service provider. For purpose of this provision, revenues shall include fees, fines, interest earned, and any other funds derived as a result of the provision of such services. For the purpose of this provision, expenditures shall include salaries of employees engaged therein, vacation, sick leave, retirement, traveling expenses, and overhead.

§7-5-5 OBLIGATIONS OF SERVICE PROVIDER

The service provider agrees to provide the following to the service recipient, in addition to the services described elsewhere in this agreement.

(a) Account for revenues and expenditures using generally accepted accounting principles, and to open all accounts for public view, including submitting copies of said accounting records for review by an independent auditor at service recipient's expense.

(b) Supply service recipient with an hourly rate for personnel used to perform services, and an estimate of non-labor expenditures for the fiscal year of the service recipient and to annually determine the hourly rate for services and annual estimates of non-labor expenditures, as an aid to budgeting by the service recipient for said services.

§7-5-6 INDEPENDENT STATUS

Under no circumstances shall the service provider, its principals, employees, associates, subcontractors, successors or assigns be deemed employees, agents, partners, successors, assigns, or legal representatives of the service recipient except as specifically required herein.

§7-5-7 RENEGOTIATIONS

If any action is taken or request made by the service recipient that materially increases the cost to the service provider of providing the services required under this agreement, the service recipient and the service provider agree to negotiate in good faith the amount of additional compensation that will be paid by the service recipient as a result of said increase in cost.

§7-5-8 EFFECTIVE DATE

This agreement shall become effective on _[month day, year] and shall continue in full force and effect until _[month day, year]_. Unless terminated as provided for herein, this agreement shall be automatically renewed from year to year for successive one-year periods thereafter.

§7-5-9 TERMINATION

This agreement may be terminated at the end of any term thereof by the service provider or service recipient giving a written notification of such intention to terminate to the other party at least 45 days before the expiration of the initial period or any succeeding one-year period. Should either the service recipient or the service provider be in default hereunder, the non-defaulting party shall give written notice of such default; and should such default not be corrected within 30 days after the mailing of notice thereof, this agreement may be terminated by the non-defaulting party by giving written notice thereof.

IN WITNESS HEREOF, the parties hereto have set their hands and seals.

ATTEST:

_____ _____

Service Provider Signature Signature

ATTEST:

_____ _____

Service Recipient Signature Signature

References:

Schretter, Howard. 1974. Opportunities and Options for Local Building Codes Enforcement. Athens, GA: Institute of Community and Area Development, University of Georgia.

§ 7-6 TRAFFIC IMPACT STUDIES

Commentary: This module is based on an ordinance adopted by the City of Roswell, GA. It may be appropriate for local governments that have significant development pressures that are straining the capacity of the local transportation network. It requires a level of sophistication that is beyond most rural local governments and is therefore not recommended except in faster growing communities with concerns about capacity deficiencies in the road network.

§ 7-6 TRAFFIC IMPACT STUDIES

§ 7-6-1 PURPOSE AND INTENT

Understanding the demands placed on the community's transportation network by development is an important dimension of assessing the overall impacts of development. All development generates traffic, and it may generate enough traffic to create

congestion and thus require the community to invest more capital funds into the transportation network in the form of new roads, traffic signals and intersection improvements. Traffic congestion results in a number of problems, including economic costs due to delayed travel times, air pollution and accidents. By requiring traffic impact studies for proposed developments meeting certain thresholds, the county [city] will be better able to determine the transportation demands of development proposals and provide for reduction of adverse impacts on the transportation system.

§ 7-6-2 OBJECTIVES

The County [City] finds that requiring a traffic impact study for proposed developments that meet certain thresholds will help to achieve the following objectives:

(a) Forecast additional traffic associated with new development, based on accepted practices.
(b) Determine the improvements that are necessary to accommodate the new development.
(c) Allow the local government to assess the impacts that a proposed development may have and assist the local government in making decisions regarding development proposals.
(d) Help to ensure safe and reasonable traffic conditions on streets after the development is complete.
(e) Reduce the negative impacts created by developments by helping to ensure that the transportation network can accommodate the development.
(f) Protect the substantial public investment in the street system.
(g) Provide information relevant to comprehensive planning, transportation planning, transit planning and the provision of programs and facilities for traffic safety, road improvements, transportation demand management, pedestrian access and other transportation system considerations.

§ 7-6-3 SHORT TITLE

This Resolution [Ordinance] shall be known and may be cited as the Traffic Impact Study Resolution [Ordinance].

§ 7-6-4 DEFINITIONS

Director of Transportation: The Director of Public Works [or County or City Engineer], or his or her designee.

Discretionary development proposal: Any application for a change of land use intensity district, preliminary plat, conditional use permit or certificate of appropriateness. For purposes of this Resolution [ordinance], a determination of applicability shall be made at the first discretionary development proposal encountered.

Commentary: Local governments that do not have conditional use permits or historic districts (i.e., certificate of appropriateness requirements) should delete reference to these types of applications.

Horizon Year: Unless otherwise specified or approved by the Director of Transportation, the horizon year shall be twenty years into the future from the year during which a traffic impact study is being prepared.

Internal trips: Trips that are made within a multi-use or mixed-use development, by vehicle or by an alternate mode, such as walking.

Level of Service (LOS): A quantitative and qualitative measure of how well traffic flows on a given street or highway. Level of Service relates to such factors as highway width, number of lanes, percentage of trucks, total traffic volume, turning movements, lateral clearances, grades, sight distance, capacity in relation to volume, travel speed and other factors which affect the quality of flow. Level of Service is typically summarized by letter grades described as follows:

Level "A" is a condition with low traffic volumes, high speeds and free-flow conditions.

Level "B" is a condition with light traffic volumes, minor speed restrictions and stable flow.

Level "C" is a condition with moderate traffic volumes, where speed and maneuvering are restricted to a limited degree by the amount of traffic.

Level "D" is a condition with heavy traffic operating at tolerable speeds, although temporary slowdowns in flow may occur.

Level "E" is a condition of very heavy flow and relatively low speeds. Under Level "E" the traffic is unstable and short stoppage may occur.

Level "F" is a condition of extremely heavy flow, with frequent stoppage and very slow speeds. It is an unstable traffic condition under which traffic often comes to a complete halt.

New trips: Total vehicle trips, minus pass-by trips, minus internal trips, if applicable.

Pass-by trips: Vehicle trips which are made by traffic already using the adjacent roadway and entering the site as an intermediate stop on the way to another destination.

Peak hour: 7:00 a.m. to 8:00 a.m., or 8:00 a.m. to 9:00 a.m. or the highest four fifteen minute increments within such time period for the a.m. peak hour; 4:00 p.m. to 5:00 p.m., 5:00 p.m. to 6:00 p.m. or the highest four fifteen-minute increments within such a time period for the p.m. peak hour.

Peak-hour trip generation study: A study by a qualified professional of one or more actual developments of similar land use and development characteristics which provides empirical data on the actual number of trips entering and exiting said development(s) during the a.m. and p.m. peak hour. A peak-hour trip generation study shall consist of a.m. and p.m. peak hour traffic counts by direction (entering and exiting) on at least three separate weekdays if the study is based on only one similar development, or at least one a.m. and p.m. traffic count for three different actual developments. The results of actual traffic counts from peak-hour trip generation studies may be adjusted to discount pass-by trips as provided in this Resolution [Ordinance].

Professionally accepted: Published by the Institute of Transportation Engineers, or prepared by a qualified professional under work supervised by the County [City], or prepared by a qualified professional and accepted by the Director of Transportation.

Qualified professional: For purposes of conducting traffic impact studies as may be required by this Resolution [Ordinance], a qualified professional shall mean a registered professional engineer with experience in traffic engineering. For purposes of conducting peak hour trip generation studies, a qualified professional shall mean a registered professional engineer with experience in traffic engineering, or another professional approved by the Director of Transportation based on education and experience to conduct such trip generation studies.

Traffic impact study: An analysis and assessment, conducted by a qualified professional, that assesses the effects that a discretionary development proposal's traffic will have on the transportation network in a community or portion thereof. Traffic impact

studies vary in their range of detail and complexity depending on the type, size and location of the proposed development.

Trip: A single or one-directional travel movement with either the origin or destination of the trip inside the study site.

Trip generation: An estimate of the number of vehicle trips that will be generated due to the new development, which is calculated based on the type and amount of land uses in the proposed development and professionally accepted trip generation rates for each such land use. Trip generation may be expressed on an average daily basis or average peak hour (a.m., p.m. or both).

§ 7-6-5 THRESHOLDS OF APPLICABILITY

A traffic impact study shall be required for any discretionary development proposal which is expected to generate more than one hundred (100) new trips during an a.m. or p.m. peak hour or more than seven hundred and fifty (750) new trips in an average day, as determined in accordance with this Resolution [Ordinance].

Commentary: The Institute of Transportation Engineers (ITE) recommends that thresholds for traffic impact study requirements be established at 100 peak hour trips. That threshold is appropriate because 100 vehicles per hour can change the level of service at an intersection approach, and because turn lanes may be needed to satisfactorily accommodate site traffic without adversely impacting through (non-site) traffic (Source: ITE, Traffic Access and Impact Studies for Site Development: A Recommended Practice, 1991). Table 7-6-1 provides illustrative land uses and thresholds which would trigger the requirement for a traffic study.

TABLE 7-6-1
DEVELOPMENTS MEETING THRESHOLDS
OF 100 PEAK HOUR TRIPS OR 750 DAILY TRIPS

TRIP GENER-ATION LAND USE CODE	LAND USE DESCRIPTION (UNIT OF MEASURE)	THRESHOLD REQUIRING TRAFFIC STUDY (WEEKDAY)		
		A.M. PEAK HOUR	P.M. PEAK HOUR	TOTAL DAILY
210	Single-family Detached Dwelling (units)	134	99	79
221	Low-Rise Apartment (units)	213	173	114
233	Luxury Condominium/Townhouse (units)	179	182	n/a
252	Congregate Care Facility (units)	1667	589	349
310	Hotel (occupied rooms)	150	141	84
320	Motel (occupied rooms)	156	173	83
521	Private School (K-12) (sq. ft. GFA)	28,249	n/a	n/a
560	Church (sq. ft. GFA)	138,889	151,515	82,328
565	Day Care Center (sq. ft. GFA)	7,868	7,576	9,463
620	Nursing Home (beds)	589	500	288
710	General Office Building (sq. ft. GFA)	64,103	67,114	68,120
750	Office Park (sq. ft. GFA)	57,472	66,667	65,675
770	Business Park (sq. ft. GFA)	69,930	77,520	58,778
820	Shopping Center (sq. ft. GFA)	97,088	26,738	17,475
832	High-Turnover (Sit Down) Restaurant (sq. ft. GFA)	10,788	9,209	5,755
834	Fast-Food Restaurant with Drive-Through Window (sq. ft. GFA)	2,005	2,987	1,512
841	New Car Sales (sq. ft. GFA)	45,249	35,715	20,000
850	Supermarket (sq. ft. GFA)	30,770	8,689	6,726
853	Convenience Market With Gasoline Pumps (vehicle fueling positions)	6	6	2
861	Discount Club (sq. ft. GFA)	153,847	26,316	17,943
912	Drive-In Bank (sq. ft. GFA)	7,918	1,826	2,828

Note: GFA = Gross Floor Area. n/a = data not available
Source: Derived from Trip Generation, 6th Edition, 1997.

§ 7-6-6 EXEMPTIONS

(a) A traffic impact study is not required if a discretionary development proposal is initiated by the County [City].

(b) A discretionary development proposal may be exempted from the traffic impact study requirement by the Director of Transportation if a prior traffic impact study for the subject property has been submitted to the county [city] and the proposed

development is substantially similar to that for which the prior traffic impact study was conducted.

(c) Any development of regional impact that complies with rules of the Georgia Regional Transportation Authority shall be exempt from this Resolution [Ordinance].

§ 7-6-7 TRIP GENERATION DATA

The source for trip generation rates for the purposes of this Ordinance shall be "*Trip Generation*" published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the Director of Transportation. Determinations of whether this ordinance applies shall be made based on application of data from ITE *Trip Generation*, which may change from time to time, or as otherwise approved by the Director of Transportation.

§ 7-6-8 DETERMINATION OF APPLICABILITY

At the time a discretionary development proposal is filed, or during any pre-application meeting if possible, the Land Use Officer shall determine whether a traffic impact study shall be required according to this Resolution [Ordinance]. The Land Use Officer shall calculate the expected trip generation of the proposed development using professionally accepted trip generation rates or other data and compare it to the thresholds specified in this ordinance to determine whether a traffic impact study is required. The Director of Transportation shall assist in this effort by providing the Land Use Officer with any updated information available on trip generation rates.

Applicants for discretionary development proposals shall provide sufficient information about the development proposal (e.g., number of dwelling units, square footage of buildings, number of employees, land area of the development, etc.) for the Land Use Officer to apply professionally accepted trip generation rates to the proposed development. The Land Use Officer shall not accept a discretionary development proposal for processing unless it contains the data on the proposed development necessary to apply available trip generation rates.

§ 7-6-9 CASES WHERE DATA ARE NOT AVAILABLE

In the event that information submitted by the applicant of the discretionary development proposal is sufficient to calculate the trip generation that would be expected to result from the proposed development, but trip generation rates or other data are not available or in sufficient quantity of studies to make a determination of applicability under the terms of this Resolution [Ordinance], this Section shall apply.

(a) The Land Use Officer shall first consult with the Director of Transportation to determine if: (1) professionally acceptable trip generation rates applicable to the subject development exist from other reputable sources, such as the *Journal of the Institute of Transportation Engineers*; (2) other trip generation studies of similar developments are available; or (3) professionally acceptable trip generation rates for one or more similar land uses can be used in making the determination of applicability. If the Director of Transportation is able to provide such information and determines it is professionally reputable, then the Land Use Officer shall use said data as may be interpreted by the Director of Transportation to make the determination of applicability. The Land Use Officer and Director of Transportation shall have no more than ten (10) working days to comply with the provisions of this paragraph, when it applies.

(b) In the event the Land Use Officer is unable to make a determination of applicability after consulting with the Director of Transportation pursuant to paragraph (a) of this Section, the Land Use Officer shall notify the proposed applicant in writing that professionally accepted trip generation rates are not available for purposes of making a determination of applicability.

(c) Upon receipt of notice described in paragraph (b) of this Section, the applicant for a discretionary development proposal shall have thirty (30) days to have a qualified professional prepare and submit a peak-hour trip generation study as defined by this ordinance.

§ 7-6-10 SPECIFICATIONS FOR PEAK-HOUR TRIP GENERATION STUDIES

(a) Discounting of pass-by trips. The peak-hour trip generation study may subtract from the empirical data on actual vehicle trips those trips that are reasonably

considered to be “pass-by” trips as defined by this Resolution [Ordinance], using professionally accepted assumptions about the percent of pass-by trips approved by the Director of Transportation.

(b) Reduction for internal trips in multi-use or mixed use developments. In calculating the new trips generated from a proposed development containing multiple uses or mixed uses, a qualified professional with the approval of the Director of Transportation may apply a percentage reduction to the total vehicle trips shown in any peak hour trip generation study to account for internal trips, as defined in this Resolution [Ordinance], so as to account for (discount) the number of internal trips reasonably expected to occur in such multi-use or mixed use development. Said reduction shall not exceed twenty-four percent (24%) of total trips generated.

§ 7-6-11 SCOPING MEETING

Once it is determined that a traffic impact study is required, a scoping meeting may be held with the developer or his or her consultant and the appropriate representatives of the county [city]. It will be the responsibility of the developer or his or her consultant to initiate this meeting. The purpose of this meeting is to discuss the availability of site-specific information concerning the development, available forecasts of traffic volumes, and to ensure the applicant understands the content requirements for traffic impact studies.

§ 7-6-12 REQUIRED CONTENTS OF A TRAFFIC IMPACT STUDY

A traffic impact study must evaluate the adequacy of the existing transportation system to serve the proposed development and determine the expected effects of the proposed development on the transportation system. The traffic impact study must provide adequate information for county [city] staff to evaluate the development proposal and, when appropriate, recommend conditions of approval.

The qualified professional preparing the traffic impact study is encouraged to coordinate preparation with local staff and staff from other jurisdictions, as appropriate, to ensure that all necessary components are included in the traffic impact study and to reduce revision and review time.

In order to be reviewed, the traffic impact study shall include at least the following minimum components:

(a) Title Page. A title page listing the name of the proposed development and its location.

(b) Table of Contents. A table of contents outlining the study shall be provided.

(c) Certification. The study shall be signed and stamped by a qualified professional.

(d) Executive Summary. An executive summary, discussing the development, the major findings of the analysis and any recommendations made by the qualified professional.

(e) Vicinity Map. A vicinity map showing the location of the proposed project in relation to the transportation system of the area.

(f) Study Area Map. A map of the traffic impact study area. For purposes of this ordinance, the traffic impact study area shall be determined according to trip generation rates as follows. In the event there is a difference as a result of applying peak and total trips, the more restrictive requirement (larger study area) shall apply.

TABLE 7-6-2
STUDY AREA SIZE REQUIREMENTS

PEAK HOUR TRIPS GENERATED	DAILY TRIPS GENERATED	DISTANCE FROM PERIMETER OF PROPOSED DEVELOPMENT ALONG ROADS
100 - 150	750 – 1,500	½ mile
151 - 500	1,501 – 5,000	1 mile
501 – 1,000	5,001 – 10,000	2 miles
1001 or more	10,001 or more	3 miles

(g) Inventory of Transportation Facilities in the Study Area. A description of transportation facilities in the study area, including roadway names, locations and

functional classifications, intersection lane configurations and traffic control (including signal timing), existing rights-of-way, transit routes and stops (if any), pedestrian and bicycle facilities and planned transportation system improvements. An existing lane configuration sketch shall be submitted for all roadways and intersections within the study area.

(h) Site Plan and Development Data. A complete description of the proposed development, including a site plan, with the best available information as to the nature and size of each proposed use and the proposed location and traffic control of all proposed access points, including the distance from all proposed access points to adjacent accesses and/or streets, including those across a street right-of-way from the subject development.

(i) Existing Traffic Volumes. Peak and total daily traffic volumes on all arterial, collector and local streets within the study area. Traffic counts should, as a rule, not be more than one year old when the report is prepared. Traffic counts between one and three years old may be used if factored to the current year. Traffic counts older than three years will not be accepted.

(j) Facility Performance. Existing performance of the transportation system, including Levels of Service (LOS) and Volume/Capacity ratios (V/C) for all intersections and road segments, as appropriate, within the study area.

(k) Trip Generation. Complete trip generation figures for all aspects of the proposed development. The source for trip generation rates shall be "*Trip Generation*" published by the Institute of Transportation Engineers (ITE), most recent edition, unless otherwise approved by the Director of Transportation. For developments expected to generate more than thirty (30) trucks per day, the trip generation data shall include separate figures for trucks. If phased development is proposed, the study shall include projections for the year that each phase of the development is planned to be complete. The traffic impact study shall also include trip generation data for any pending and approved developments that would affect the study area. The county [city] shall facilitate the review of applicable files by a qualified professional to determine the names and development characteristics of pending and approved developments in the study area.

(l) Trip Distribution and Assignment. Trip distribution for the proposed development. For developments expected to generate more than thirty (30) truck trips per day, the study shall include separate trip distribution figures for trucks.

(m) Forecast Traffic Volumes Without the Development. Forecast traffic volumes without the development, on all arterial, collector and local roads within the study area, in the year that the proposed development is planned to commence, and in the horizon year. Qualified professionals should consult city transportation staff for information to determine the most appropriate sources or methods of determining future traffic volumes. If phased development is proposed, the traffic impact study shall include projections for the year that each phase of the development is planned to be complete.

(n) Forecast Performance Without the Development. Forecast performance, including Levels of Service (LOS) and Volume/Capacity (V/C) ratios of the transportation system without the development in the year that each phase is planned to be complete and in the horizon year.

(o) Forecast Traffic Volumes With the Development. Forecast traffic volumes with the development, on all arterial, collector and local roads within the study area, in the year that the proposed development is planned to commence and in the horizon year.

(p) Forecast Performance With the Development. Forecast performance, including Levels of Service (LOS) and Volume/Capacity (V/C) ratios of the transportation system with the development in the year that each phase is planned to be complete and in the horizon year.

(q) Sight Distance. A safety analysis of the site accesses and an assessment whether adequate sight distances are provided at driveways and streets abutting the development.

(r) Operational Characteristics. Analysis of prevailing operating speeds, if significantly different than speed limits, right and left turn lane warrants, queue lengths, acceleration and deceleration lanes including lengths and tapers, throat lengths, channelization, and other characteristics of the site accesses, which exist and may be needed, as appropriate. The traffic impact study shall address whether driveways and intersections are located and spaced safely and designed to accommodate expected traffic volumes and maneuvers. The operational characteristics analysis shall also evaluate the turning and traveling

characteristics of the vehicles that will be using the proposed development and the adequacy of the geometrics of the existing and proposed roadway (public and/or private) configurations to accommodate these characteristics.

(s) On-site Circulation. The traffic impact study shall address whether on-site vehicular and pedestrian circulation and parking layouts are safe and efficient.

(t) Significant Impacts. Analysis as appropriate of any potential adverse or controversial effects of the proposed development on the transportation system in the area. Examples of possible effects include, but are not limited to, infiltration of non-residential traffic into residential neighborhoods, traffic noise, creation of potential for traffic violations, conflicting turning movements with other driveways, any new pedestrian or bicycle transportation needs arising from the development, etc.

(u) Mitigation Measures and Costs. Listing of all intersections and road segments that are forecasted to be Level of Service "E" and "F" in the horizon year, or if phased, in the years that each phase is planned to be complete, and an identification and description of specific mitigation measures including signal, turn lane, or other warrant analyses as appropriate and necessary to bring these intersections and road segments into compliance with a Level of Service "D" or other county [city] -adopted Level of Service for said road segment or intersection.

If roadway improvements are needed, the study shall show a drawing at an engineering scale of one inch equals twenty feet (1" = 20') for all recommended lane configurations.

If signalization is warranted by the traffic signal warrants outlined in the Manual on Uniform Traffic Control Devices (MUTCD), a warrant analysis shall also be conducted as a part of the traffic impact study. If a traffic signal is warranted, the warrant package in the study shall show a drawing at an engineering scale of one inch equals twenty feet (1" = 20') detailing the signal design and phasing plans.

The estimated cost associated with implementing all such mitigation measures shall be provided in the traffic impact study. The traffic impact study may take

into account any city/county/state approved roadway, traffic signalization and other improvements in determining mitigation measures and providing recommendations.

(v) Alternative transportation. Alternative transportation (sidewalk, bicycle, transit) needed as a result of the study.

(w) References. A listing of all technical documents and resources cited or consulted in preparing the traffic impact study.

(x) Technical Appendix. Relevant technical information, including but not limited to: copies of raw traffic count data used in the analysis, calculation sheets and/or computer software output for all LOS and V/C calculations in the analysis, and warrant worksheets for signals, turn lanes, signal phasing, etc. used in the analysis.

§ 7-6-13 ADDITIONAL TECHNICAL SPECIFICATIONS

The Director of Transportation is further authorized to promulgate and require the use of additional technical specifications for conducting traffic impact studies, which shall be consistent with analysis methods included in the most recent *Highway Capacity Manual*, *Manual on Uniform Traffic Control Devices*, and/or *Traffic Access and Impact Studies for Site Development: A Recommended Practice* (Washington, DC: Institute of Transportation Engineers, 1991), as may be amended or republished from time to time.

§ 7-6-14 COSTS AND FEES

The county [city] assumes no liability for any costs or time delays (either direct or consequential) associated with the preparation and review of traffic impact studies. There shall be no application review fee for a traffic impact study.

§ 7-6-15 SUBMITTAL AND REVIEW OF STUDY

The applicant for the proposed development or the qualified professional shall submit one electronic copy of the traffic impact study and technical appendix, five (5) paper copies of the traffic impact study and one paper copy of the technical appendix to the

Land Use Officer. The Land Use Officer shall transmit the electronic copy, four (4) paper copies of the traffic impact study and the paper copy of the technical appendix to the Director of Transportation, who may at his or her discretion submit copies of the report to applicable review agencies which may include the Georgia Department of Transportation, the Georgia Regional Transportation Authority, an adjacent local jurisdiction and/or metropolitan planning organization or regional development center. Within ten (10) working days of receipt of a traffic impact study, the Director of Transportation shall review all calculations and analyses and determine if they are complete, reasonable, understandable, consistent and fully explained. The conclusions presented in the traffic impact study shall be consistent with and supported by the data, calculations and analyses in the report. Calculations, graphs, tables, data and/or analysis results that are contrary to good common sense or not consistent with and supported by the data will not be accepted. In such events, the Director of Transportation shall return the traffic impact study to the development applicant for correction.

§ 7-6-16 RECOMMENDATIONS FOR MITIGATION OF IMPACTS

Within ten (10) working days of receipt of a completed traffic impact study, the Director of Transportation shall complete his or her review the study and submit to the Land Use Officer all recommendations for mitigation measures as stated in the traffic impact study and include any interpretations or recommended conditions of approving the discretionary development proposal that will mitigate traffic impacts of the proposed development.

§ 7-6-17 DETERMINATION OF PROJECT AND SYSTEM IMPROVEMENTS

Upon receipt of the recommendations of the Director of Transportation with regard to the traffic impacts of the discretionary development proposal, the Land Use Officer shall determine which mitigation measures constitute “project” improvements and which mitigation measures constitute “system” improvements within the context of the Georgia Development Impact Fee Act of 1990.

In the event that a particular improvement is called for in the traffic impact study or recommended by the Director of Transportation, and the Land Use Officer is unable to uniquely attribute the recommendation as a project or system improvement or finds that such improvement has characteristics of both a project improvement and a system improvement, the Land Use Officer with the assistance of the Director of Transportation if necessary shall determine the proportion of the cost of such improvement that can reasonably be attributed to the development as a project improvement, and the portion of such improvement that can reasonably be considered a system improvement.

Commentary: Under Georgia's Development Impact Fee Act of 1990, local governments are not lawfully able to charge developers for "system" improvements, or those improvements that benefit more than just a single project, unless they are charged their proportionate share through a development impact fee program. This ordinance was written to accompany a development impact fee ordinance for roads, something that most local governments have not adopted. However, an impact fee system is not required in order to implement this ordinance.

§ 7-6-18 CONDITIONS OF DEVELOPMENT APPROVAL FOR PROJECT IMPROVEMENTS

Upon the determination of project improvements needed to mitigate the traffic impacts of the discretionary development proposal as provided in Section 7-6-17 of this Resolution [ordinance], the Land Use Officer shall recommend that the project improvements be completed by the developer as conditions of approval of the discretionary development proposal.

§ 7-6-19 SYSTEM IMPROVEMENTS

When the Director of Transportation recommends improvements as a condition of a development proposal that the Land Use Officer determines are wholly or partially "system" improvements, the Land Use Office may include such recommendations in the recommended conditions of approval for the discretionary development application. The development applicant and the city in the case of system improvements shall have the following options:

(a) The applicant for a discretionary development proposal may voluntarily agree to pay for the cost of providing the system improvements, or a pro-rated share of the cost of said system improvements that are reasonably attributed to the subject development, as determined by the county [city].

(b) If the mitigation measure is a system improvement that is specifically listed in the county's [city's] capital improvement element of the comprehensive plan as an impact fee-eligible system improvement, then the development applicant may agree to install the system improvement and the county [city] may agree to provide an impact fee "credit" or partial credit pursuant to the Development Impact Fee Ordinance.

(c) The county [city] may determine that the road impact fee required by the county's [city's] Development Impact Fee Ordinance is sufficient with regard to mitigating the need for system improvements generated by the proposed development and approve the subject development without conditions relative to system improvements. In such cases, the county [city] may subsequently use the traffic impact study for future long range transportation planning efforts and may consider the recommendations of the traffic impact study in a future update of its transportation system plan, capital improvement plan and/or the capital improvement element of the comprehensive plan.

(d) In the case of an application for discretionary development proposal before the Board of Commissioners [Mayor and City Council], the county [city] may find that the proposed development will provide substantial adverse impacts on the transportation system. The county [city] may find further that the existing transportation system is insufficient to serve the proposed development and that despite the applicant's payment of a development impact fee, the county [city] is unable to provide adequate transportation facilities within a reasonable amount of time after the impacts of said development would occur. Given such findings, the Board of Commissioners [Mayor and City Council] may reduce the development density or intensity to the degree that the impacts of the development proposal do not degrade transportation facilities below adopted Level of Service Standards, require a phasing of the development in a manner that adequate public facilities will be provided publicly or privately, or in cases where such other

alternatives do not address the adverse impacts, deny an application for a discretionary development proposal.

§ 7-6-19 APPEAL

An applicant for a discretionary development proposal may appeal a decision of the Director of Transportation or the Land Use Officer in the administration and interpretation of this Resolution [Ordinance] to the Board of Zoning Appeals in accordance with Section 7-2 of this Model Code.

Appendices

Task 1 Report:

Land Use Problems and Issues in Rural Georgia

CHAPTER ONE

PURPOSE

> *The media, along with concerned citizens and several land use experts, have ably described the painful consequences of sprawl: the conversion of farmland, the parceling of timberlands, soaring infrastructure and transportation costs, loss of wildlife habitat, increased air pollution from more vehicles traveling more miles, and water pollution from the widespread use of on-site septic systems* (Tom Daniels 1999, p. xiii).

This report is the first major work product of a project called "Alternatives to Conventional Zoning," or "ALT Z." The ultimate objective of ALT Z is to provide a model land use management system that will be more readily understood, easier to administer, and more likely to be adopted by Georgia's rural local governments than conventional zoning ordinances.

To provide a model land use management system for local governments in rural Georgia, one must have knowledge of the target audiences (i.e., the local governments that are expected to consider adopting the land use code, in whole or in part), and the land use problems and issues that they confront. Furthermore, one must conduct an inventory of existing zoning and other land development regulations in order to find where the gaps are (i.e., what regulations cities and counties have not adopted). Rather than proceed directly to writing model code provisions, the ALT Z project scope includes Task 1, which calls for some careful analysis of rural land use problems and issues and prevailing responses to them.

By conducting advance research in Task 1, ALT Z intends to avoid potentially invalid assumptions about the problems and issues of land use in rural Georgia. We also want to avoid offering predetermined solutions before we understand fully the problems at hand. While we are generally aware of the types and degrees of land use problems facing rural Georgia, it would be too risky to proceed directly to prepare the final product without more information to inform that task. ALT Z needs a foundation and justification for proceeding to the main work task of producing a model land use management system, and this Task 1 report is intended to provide that foundation and justification.

> *A state one-size-fits-all planning approach for cities, towns, and counties will not work, especially in a large and diverse state* (Daniels 1999, p. 163).

We seek not only to identify land use problems and issues in rural Georgia, but also to illuminate them through references to regions and localities in the state. It is highly unlikely that any single land use management system will be applicable to all, or even the vast majority, of local governments in rural Georgia that have not adopted zoning ordinances. This report seeks to illuminate the diverse land use problems and issues of rural Georgia and the varying abilities of cities and counties to respond to them. Based *on the information provided in this report, a model land use management system for Georgia's rural local governments will be prepared in a way that maximizes its utility for the greatest possible number of them.*

In addition to identifying and illuminating the land use problems and issues in rural Georgia, we seek to inform ourselves about what land use regulations have been adopted and the reasons

why zoning and other land use management techniques have not been adopted in rural Georgia in response to these problems and issues. Some of the reasons for a lack of land use regulations in rural Georgia are readily apparent: opposition to land use restrictions by property rights activists, the complexity, rigidity, and perceived inappropriateness of conventional zoning, and the lack of professional staff to administer land use regulations. By asking the question "why hasn't zoning been adopted" and answering that question through case studies, we hope to inform ourselves of the various obstacles to land use regulation in rural Georgia. We should also be able to produce a model land use management system that responds to the unique needs of the target audience. The information in this report is expected to guide and help refine the content of the model land use management system.

Although this report focuses on cities and counties that have not adopted zoning ordinances, those that do have zoning ordinances in place may still be a candidate for ALT Z work products. Although several local governments have adopted zoning ordinances, that does not mean that they are effective and consistently enforced in all areas. Several of the existing zoning ordinances in rural Georgia have not been updated but need to be modernized.

CHAPTER TWO

STATEWIDE CONTEXT

Land Use in Georgia

Because the state has such differing regions and characteristics, it is important to review briefly the differences in land uses in Georgia's regions. Major land use characteristics tend to vary by physiographic provinces, which include the Cumberland Plateau, the Ridge and Valley, the Blue Ridge Mountains, the Piedmont, and the Coastal Plain. For instance, agriculture tends to dominate most of the upper coastal plain area of Georgia, where the highest concentration of prime farmland exists. Forests cover approximately 75 percent of the three mountain physiographic provinces, and recreation and second home development are also important there. The bulk of the urban and industrial activities in the state are located in the Piedmont. The lower coastal plain is a major forest products region and also consists of wetlands and barrier islands. Tourism, recreation, pulpwood production, and seafood harvests are important economic activities in coastal Georgia.

In 1979, forests comprised approximately two-thirds of Georgia's land area, with another 25 to 30 percent devoted to agriculture (cropland and pasture). Only about four to six percent of the state's land area was urban in 1979 (Georgia Department of Community Affairs 1983; Kundell et al. 1989; Ndubisi 1996). Forest land in 1987 comprised only 58 percent of the total acreage in Georgia, suggesting a significant decrease from the 1979 figure (Ndubisi 1996).

Although agricultural land use is still significant, the amount of land devoted to crop production has declined significantly—by some 270,000 acres between 1982 and 1987 alone. Urban to rural land conversion is also substantial—approximately 230,000 acres of rural land were converted to urban uses between 1982 and 1987. With regard to urban uses, it is suburbanization rather than urbanization that is the major population trend in Georgia (Ndubisi 1996).

History of Local Land Use Regulation in Georgia

In 1921, the Georgia General Assembly delegated power to the City of Atlanta to regulate the location of land uses. In 1928, a state constitutional amendment was passed which allowed municipal zoning in Albany, Athens, Atlanta, Augusta, Columbus, Macon, Valdosta, and other cities. As of 1936, only cities of specified population sizes in Georgia had the constitutional power to zone, and county zoning was unconstitutional (Commissioners of Glynn County v Cate, Georgia Supreme Court, 1936) (Ndubisi 1996).

A state constitutional amendment was passed in 1937 which enabled cities and counties with populations of 1,000 persons or more to plan and zone. This constitutional amendment was upheld in the case Schofield v Bishop (1941). The population qualifications of local governments to exercise zoning powers were removed by the 1945 state constitution, and the state was given authority to take an active role in land use matters. In 1946, the state passed the Zoning and Planning in Municipalities Act, which was patterned after the Standard State Zoning Enabling Act of 1928. Both municipalities and counties were authorized to exercise zoning powers upon passage of the General Planning Enabling Act of 1957, and this enabling act replaced individual authorizations by the General Assembly for counties to adopt zoning regulations (Ndubisi 1996).

In 1966, a constitutional amendment was passed which gave counties the self-executing powers to plan and zone, and by this time counties no longer required individual actions of the General Assembly through local legislation to modify their zoning powers. Another constitutional amendment in 1972 reinforced the self-executing powers of counties and cities to plan and zone and freed local governments of the requirements of the 1946 enabling act. The 1976 state constitution restricted the Georgia General Assembly from interfering with local zoning powers, thus invalidating the 1946 and 1957 enabling acts and drastically altering the balance of zoning powers between the state and local governments. However, the 1976 constitution also authorized the General Assembly to protect and preserve the natural resources and vital areas of the state. The 1983 state constitution eliminated the prohibition that forbid the Georgia General Assembly from becoming involved in local land use planning and zoning, although it reserved authority of the General Assembly to establish zoning procedures. The 1983 state constitution also reaffirmed home rule authority to cities and counties. In 1985, a zoning procedures law was passed (Ndubisi 1996).

History of State Environmental and Land Use Statutes

Georgia's environmental and land use statutes include, but are not limited to, the following: Georgia Surface Mining Act (1968), Georgia Scenic Rivers Act (1969), Coastal Marshlands Protection Act (1970, amended 1992), Groundwater Use Act (1972), Metropolitan River Protection Act (1973), Soil Erosion and Sedimentation Control Act (1975, amended 1989), Air Quality Act (1978, amended 1992), Shore Assistance Act (1979, repealed 1984), Historic Preservation Act (1980), Georgia Planning Act (1989), Development Impact Fee Act (1990), Comprehensive Solid Waste Management Act (1990), Environmental Policy Act (1990), Mountain and River Corridor Protection Act (1991), Bona Fide Conservation Act (1991), Shore Protection Act (1992), River Basin Management Act (1992), and Water Conservation Act (1994) (Ndubisi 1996).

Status of Local Land Use Regulation in 1976 and 1985

As shown in the table below, in 1985 a majority of counties in Georgia did not have any major land use controls. Although a majority of Georgia's cities had a zoning ordinance in 1985, a majority of the cities did not have subdivision, mobile home, and erosion control ordinances.

Table 1
Percentage of Cities and Counties in Georgia
With Land Use Regulations by Type: 1976 and 1985

Type of Regulation	Cities		Counties	
	1976	1985	1976	1985
Zoning ordinance	31%	54.67%	30%	36.12%
Subdivision regulations	21%	36.51%	50%	49.68%
Mobile home ordinance	NA	42.39%	NA	36.77%
Erosion control ordinance	NA	25.76%	NA	46.45%

NA = not available

Sources: 1976 data are from Ndubisi 1996, who cites his source as the Georgia Planning Association Local Planning Profiles (1977). 1985 data from the 1985 Local Government Operations Survey, conducted by the Georgia Department of Community Affairs with the assistance of Area Planning and Development Commissions, as reported in Kundell et al. 1989 (Table 2-3, p. 28). Ndubisi (1996) also reports the number of cities and counties with zoning

ordinances and subdivisions in 1985—his numbers differ slightly from Kundell et al. for counties but more significantly for cities. Ndubisi notes that 268 cities (46%) had zoning ordinances and 180 cities (31%) had subdivision regulations.

Kundell and colleagues (1989) mapped the counties with zoning ordinances, subdivision regulations, mobile home ordinances, and erosion control ordinances in 1985. They also analyzed the relationship between population size and the adoption of land use regulations, finding there was a positive, statistically significant relationship. That is, they found that higher populated cities and counties are more likely to adopt land use regulations than less populated jurisdictions.

Counties Without Zoning Ordinances

Information from the Department of Community Affairs shows the number of counties in Georgia as of 1998 that have not adopted a zoning ordinance (Growth Strategies Reassessment Task Force 1998). The 72 counties that did not have zoning ordinances as of 1998 are located in 12 RDCs, as shown below. In the past three or four years, the number of counties without zoning ordinances has been reduced considerably, because of Georgia's coordinated planning program and regional and local efforts to address land use problems and issues. Since 1998, at least nine counties have adopted their first countywide zoning ordinances. Other counties are in the process of doing so.

Table 2
Counties in Georgia Without Zoning Ordinances, 1998

RDC	# Counties Without Zoning Ordinances	% of Total Counties in RDC	Names of Counties Without Zoning Ordinances
Coosa Valley	2	20%	Chattooga, Dade
North Georgia	4	80%	Fannin, Gilmer, Murray, Pickens
Georgia Mountains	7	54%	Franklin, Hart, Lumpkin, Stephens, Towns, Union, White
Northeast Georgia	2	17%	Elbert, Oglethorpe
Middle Georgia	2	20%	Baldwin, Wilkinson
Central Savannah River Area, 2001	~~9~~ 7	~~64%~~ 50%	Burke, Glascock, Jenkins, ~~McDuffie, Screven~~, Taliaferro, Warren, Washington, Wilkes
Lower Chattahoochee	3	38%	Clay, Quitman, Randolph
Middle Flint, 2001	~~7~~ 3	~~88%~~ 37%	~~Dooly,~~ Macon, ~~Marion,~~ Schley, ~~Sumter, Taylor,~~ Webster
Heart of Georgia-Altamaha	17	100%	Appling, Bleckley, Candler, Dodge, Emanuel, Evans, Jeff Davis, Johnson, Laurens, Montgomery, Tattnall, Telfair, Toombs, Treutlen, Wayne, Wheeler, Wilcox

Coastal Georgia	1	11%	Long
Southwest Georgia	7	50%	Baker, Calhoun, Decatur, Early, Grady, Miller, Seminole
South Georgia, 2001	~~5~~ 3	~~50%~~ 30%	Berrien, Echols, ~~Irwin,~~ Lanier, ~~Turner~~
Southeast Georgia	~~6~~ 4	~~75%~~ 50%	Atkinson, Bacon, Brantley, Charlton, ~~Clinch, Coffee~~
Total	~~72~~ 63	--	-----

Source: Compiled by Jerry Weitz based on Growth Strategies Reassessment Task Force. 1998.
Note: Original 1998 data is shown as ~~strikethrough~~ in cases where more current information was available, i.e., certain counties that have adopted zoning ordinances since the 1998 data were published.

Cities Without Zoning Ordinances

The Department of Community Affairs (2000) maintains a data base which shows whether each city in the state has adopted a zoning ordinance, as of the year 2000. This information, which is self-reported and has not been independently verified by DCA, shows that approximately 123 of the state's cities do not have zoning ordinances in place. It is believed that the self-reported data underestimate considerably the number of cities that do not have zoning ordinances. Due to the large number of cities in Georgia, it would be a monumental task to verify the information reported by cities relative to the status of their land use regulations.

CHAPTER THREE

REGIONAL LAND USE PROBLEMS AND ISSUES

After reviewing the data on counties without zoning ordinances, it became apparent that reviewing land use elements of selected regional plans would be an efficient way to grasp the land use problems and issues in rural Georgia. Also, by considering the regional perspective, we are more likely to identify the land use problems and issues that are common to more than one county. We selected five RDC regional land use plans for review: Georgia Mountains, Middle Flint, Central Savannah River Area, Heart of Georgia-Altamaha, and Southwest Georgia. We selected these five RDCs because as of 1998 they had larger numbers of counties in the region without zoning ordinances (see Table 2).

This chapter first summarizes the status of local land use regulations in the selected regions. Following that synopsis of local land use regulations, this chapter describes the issues and problems that are regionally significant, as identified in the regional land use elements of regional plans. The regional land use problems and issues are classified into four types: agricultural/rural land use problems and issues; small town and suburban land use problems and issues; environmental land use problems and issues; and administration and enforcement of land use regulations. Each particular regional land use problem or issue is addressed individually, with some elaboration on individual regions where appropriate. The degree to which a particular land use problem or issue exists in a given region is shown in a summary matrix for the five regional land use elements that we reviewed.

In the descriptions of each regional land use problem or issue, we have identified and classified each land use problem or issue in a given region as “major” if there is significant content devoted in the regional land use element to that problem or issue. Major land use problems and issues are those that affect at least two counties, typically more. A land use problem is classified as “minor” in a given region if it is mentioned in the regional land use element or work program but little elaboration or few examples are provided. However, the classification of a land use problem or issue as “major” or “minor” was admittedly the subject of subjective judgment. Other information that feeds into the determination of “major” versus “minor” problems and issues include interviews, personal knowledge of some of the jurisdictions and regions, and review of statewide data and other literature.

STATUS OF LOCAL LAND USE REGULATIONS IN SELECTED REGIONS

Regional land use elements typically indicate how many counties and cities in their respective region have adopted various land use regulations. From the regional land use elements reviewed, and information available from one additional RDC (South Georgia), we report in Table 3 the number of counties with various land use regulations currently in place (other than zoning ordinances which we have reported statewide in Table 2 above). At this point, it would be too cumbersome and time consuming for us to summarize in this report the data for cities in the five regions.

Table 3
Counties with Land Use Regulations By Selected Region

RDC	Total # Counties	Number of Counties in Region with Different Types of Land Use Regulations					
		Erosion & Sediment. Control	Land Subdivision Regulations	Mobile Home Regulations	Grading Permit	Flood Damage Prevention	Sign Ordinance
Georgia Mountains	13	13	11	11	8	10	11
Middle Flint	8	7	2	4	NA	2	NA
Central Savannah	16*	8	6	5	2	4	NA
Southwest Georgia	14	7	9	7	NA	12	NA
South Georgia	10	NA	8	7	NA	NA	NA
Heart of Ga.-Altamaha	17	NA	NA	NA	NA	NA	NA

*as shown in table LU-1 of the Central Savannah River RDC regional plan.
NA = not available.
Source: Regional land use elements and regional work programs for RDCs listed in table.

Omitted from Table 3 above are data on land development regulations, as distinguished from zoning ordinances and land subdivision regulations. That is, even if a local government has zoning and subdivision regulations, there are other regulations such as improvement requirements and construction specifications that are missing from this discussion.

AGRICULTURAL AND RURAL LAND USE PROBLEMS AND ISSUES

Rural and Suburban Sprawl and Exurban Scatteration

> *In the rural-urban fringe, it is common to find new homes in the $250,000-and-up price range. These homes, often set on an acre or more, are known as "McMansions" because of the gaudy style and emphasis on putting the garage up front, close to the road. There is something out of place about these homes. They isolate people from each other and defeat the sense of place and community. They are an attempt at creating rural estates, mini-Mount Vernons and Monticellos, except that neither Washington nor Jefferson made a daily commute of dozens of miles to and from work* (Daniels, 1999, p. 89).

Rural scatteration and exurban sprawl	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem	X				X
Minor issue or problem		X	X	X	

In the CSRA region, Columbia County has witnessed extensive suburban growth from the Augusta urban area. Suburban and exurban development is beginning to occur in McDuffie County and Lincoln County as land prices escalate in already suburban Columbia County. Similarly, planners indicate that Burke County is likely to witness rapid development due to its proximity to Richmond County, its lower land prices, and recently improved access via the Savannah River Parkway.

In the Heart of Georgia-Altamaha region, development in unincorporated areas is concentrated "almost exclusively around and within the region's municipalities." However, it too has witnessed suburban and exurban residential trends. The HOG-A regional land use element indicates that "there has been a recent trend throughout the region of single-family, larger-lot development locating on the outskirts of the various municipalities." It finds further that these new residential areas are underserved by infrastructure.

The Middle Flint RDC regional land use element finds that the region's farms are becoming interspersed with single-family housing that have no economic or family ties to the abutting farm land. Marion County has experienced, and Talbot and Marion Counties are experiencing, overflow development from Muscogee and Harris counties (the Columbus metropolitan area). Development overflow may also come from the east (Houston County) to the Middle Flint region. These findings indicate that exurban and suburban sprawl are affecting parts of the Middle Flint region.

The Middle Flint regional land use element also finds that, with infrastructure extensions into the unincorporated areas, growth is expanding beyond the corporate limits of Americus and Cordele, the region's two population centers. The regional land use element notes that with municipal services already in place, unincorporated residents in fringe areas resist annexation. As a consequence in Americus, the city is becoming "boxed in" on the east by uncontrolled and

unregulated development. Sumter County does not have zoning and has only had subdivision regulations, a mobile home park ordinance, and building codes since 1995.

In Southwest Georgia, commercial and industrial development in the Albany MSA is having a significant "bedrooming effect" in southern Lee County, a portion of Terrell County, and even the western part of Worth County. In addition, exurban development from Tallahassee, Florida, is beginning to influence development patterns in the southern tier of counties in the region (Thomas, Grady and Decatur) and threatens the scenic "Red Hills" region. The Southwest Georgia regional plan indicates that urban growth boundaries should be developed to insure adequate and efficient provision of infrastructure.

Loss of Prime Farmland

> *When farmers and ranchers see land in their vicinity being subdivided into house lots and commercial outlets, they tend to reduce their level of reinvestment in their farms and ranches, as they begin to anticipate selling their land for development in the near future. This process, known as the impermanence syndrome, describes how farmers and ranchers lose their commitment to agriculture in the face of persistent development pressures* (Daniels 1999, p. 151).

Loss of prime farmland	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem		X		X	X
Minor issue or problem					

The regional land use element for the Georgia Mountains RDC cites the loss of prime farmland and agricultural-residential land use conflicts as "volatile" issues. It notes that as residential development occurs in agricultural areas, land values for farmland escalate and eventually require farmland to be subdivided for residential lots. The pace of farmland conversion is slow but steady in the Georgia Mountains region. GMRDC's regional work program calls for assisting local governments adjacent to metropolitan Atlanta and in the Interstate 85 corridor with ordinance improvements and updates focusing on agricultural preservation and farmland protection programs. The HOG-A RDC regional land use element indicates that a reduction of farm and forest land is projected as consumption for other land uses occurs.

The Middle Flint RDC region has a greater percentage of land area classified as prime farmland than in the state as a whole, or the nation. The Middle Flint RDC regional land use element does well to describe the issue of farmland loss in relation to land use regulation. It notes that county regulations establish minimum residential lot sizes of two acres or less and that such minimums provide very little protection from conversion of prime farmland to residential uses. It notes further as follows:

> *"In the process of converting an acre of farmland to residential use, the amount actually taken out of agricultural production is usually more because location of the converted lot can make it impractical to work the adjoining acreage, farm operators may have to take extra precaution to avoid the residential property and residential landscaping*

Improvements can sap the crop in the adjoining field"
(Middle Flint RDC Regional Plan).

The Southwest Georgia region is "one of the nation's most productive agricultural regions and leads the state and nation in many areas of agricultural production. High rates of farmland loss are occurring in Lee, Thomas, and Dougherty counties. The region's land use element suggests the need for "strict agricultural zoning regulations."

In 1983, state law governing the ad valorem tax on agricultural lands was amended to remove incentives to the conversion of agricultural lands to other uses. The law provided that agricultural land parcels with a land value of $100,000 or less could have the tax rate of 40 percent of fair market value reduced in exchange for a minimum ten-year covenant to maintain the land in bona fide agricultural uses. A similar preferential treatment of taxation was extended to conservation areas via the Bona Fide Conservation Act of 1991 (Ndubisi 1996).

Agricultural-Residential Land Use Conflicts

Agricultural-residential land use conflicts	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem		X	X	X	X
Minor issue or problem					

The regional land use element for the Georgia Mountains RDC cites the loss of prime farmland and agricultural-residential land use conflicts as "volatile" issues. It notes that the noise, dust, and odors associated with agriculture produces conflicts with residents of new residential subdivisions built adjacent to active farms. Furthermore, an interview with the GMRDC planning director, Larry Sparks, reveals that land use conflict between poultry farmers and rural residents is a long-standing issue.

Whereas poultry farming has had a fairly long history in the Georgia Mountains region, agricultural-residential land use conflicts due to intensive poultry growing and production facilities is a much more recent phenomenon in the Middle Flint RDC region. The Middle Flint RDC regional land use element finds that "relatively few current residents have an appreciation for the intense agricultural activities common throughout the rural area." It describes the increasing land use conflicts between rural residences and intensive agriculture. Poultry has developed into a big industry in the Middle Flint region, which includes large poultry processing facilities on the east and west sides of the region with hatchery, feed mill and poultry houses in between these processing facilities. Large poultry houses in the Middle Flint region are viewed as "visual intrusions in otherwise pastoral settings" and "malodorous intrusions" to rural residents along great distances. It notes further that only one county has responded directly to this conflict by adopting a poultry house ordinance establishing minimum setback requirements, although other counties have recently adopted or are currently considering adopting zoning ordinances.

In the Southwest Georgia region, poultry processing is also evident. The regional land use element for the Southwest Georgia RDC region notes that a very large poultry processing operation was reviewed as a development of regional impact and located in Mitchell County. Hence, this region, too, is experiencing issues with poultry growing and processing. The regional land use element for Southwest Georgia also notes that there are major land use

conflicts between agricultural and suburban land users. "The recent influx of large scale poultry operations has instigated many typical rural residential/agricultural conflicts."

Furthermore, an interview with Rafael Nail of the Heart of Georgia-Altamaha RDC reveals that poultry farming and processing has become an issue in that region, as well. Nail expressed particular concerned about poultry houses, which are expected to expand as a land use due to the recent location of a large, new hatchery in the region. Candler County has adopted a 1000-foot setback requirement for poultry houses.

Manufactured/Mobile Home Incompatibility

Manufactured home- mobile home incompatibility	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem					X
Minor issue or problem	X	X			

The CSRA land use element indicates that development pressure in parts of Screven, Jenkins, and Emanuel counties is occurring because counties bordering them to the south (Effingham and Bulloch) have ordinances that place significant restrictions on manufactured homes. Because Screven, Jenkins, and Emanuel counties do not have similar regulations, they are receiving the unregulated manufactured homes that are displaced from the counties to the south. The CSRA land use element recommends adoption of similar manufactured home ordinances in Screven, Jenkins, and Emanuel counties. Hence, it seems clear that manufactured home compatibility standards, and other elements of manufactured home ordinances, should be a part of the model land use management system.

The Heart of Georgia-Altamaha region land use element indicates that low-density manufactured housing in rural areas is likely to continue. The HOG-A regional land use element indicates that the burgeoning presence and overabundance of manufactured housing is leading to a lack of diversity in the area's housing stock and may have a negative impact on property values and local tax bases. The RDC regional land use element finds that many local government plans address the issue of controlling the compatibility of manufactured housing with existing development.

Similarly, the Southwest Georgia RDC regional land use element indicates some concern over manufactured homes. It finds that "increased manufactured housing (affordable housing) development within subdivisions and park communities with perceived low tax status is a growing source of regional political concern."

SMALL TOWN AND SUBURBAN LAND USE PROBLEMS AND ISSUES

Strip Commercial Development and Poor Aesthetics

Strip commercial development and poor aesthetics	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem					
Minor issue or problem	X	X			

The CSRA land use element emphasizes the relationship between suburban sprawl and the small cities of the region in stating that "many downtowns are losing their viability to strip development and suburban areas." Similarly, the GMRDC regional land use element indicates that sprawling residential development creates new commercial strip centers that shift financial priorities away from the central cities and result in deterioration of downtowns and loss of identity and sense of community. As a related issue, the regional land use element for Southwest Georgia cites a need to protect rural landscapes along the region's scenic highway corridors.

Inappropriate Development in Downtown Business Districts

Inappropriate development in downtown business districts	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem					
Minor issue or problem		X			

While the "courthouse square" is common throughout the county seats of Georgia, it is a little-known fact that some 230 of Georgia's cities were laid out according to town planning principles, including a town square, a grid pattern of streets, and sites reserved for courthouses, churches, and schools. Four small towns were planned prior to 1805 (Washington, Waynesboro, Elberton, and Sparta), and additional courthouse towns were planned in 1826 (Americus, Cuthbert, Carrollton, Franklin, Greenville, Hamilton, LaGrange, Lumpkin, Newnan, and Talbotton). In 1835 in the northwestern part of the state, other courthouse towns were planned and established (Blairsville, Canton, Cumming, Dahlonega, Ellijay, Marietta, and Lafayette) (Ndusbisi 1996).

GMRDC's regional agenda, short-term work program, indicates that it should work with local governments with downtown facilities to develop flexible mixed use zoning districts for downtowns. In the Southwest Georgia region, there is concern that the urban areas are losing population to the unincorporated, rural parts of the region.

Need for Infill Development

> *…many fringe communities are witnessing significant losses of open space. For instance, rapidly growing Greater Atlanta loses an estimated five hundred acres of open space to*

development each week (Daniels 1999, p. 149).

Need for infill development	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem	X	X			
Minor issue or problem			X		

DCA's regional planning requirements require a discussion of infill development needs. Hence, planning standards for regional plans are probably the primary reason for the frequent citation of infill development issues in the regional plans. The regional land use element for the Georgia Mountains RDC indicates that not much infill development is occurring because "it is just plain cheaper to build somewhere else."

The CSRA land use element suggests that Columbia, Richmond, and McDuffie counties, as well as the City of Augusta, need to make infill development a priority. Infill development in the Georgia Mountains region is considered particularly important because "one of the biggest problems…is that land available to development is a very limited commodity." This is due to large percentages of land area under the jurisdiction of the federal government (i.e., national forests). Infill development is cited as an important issue for cities in the Heart of Georgia-Altamaha region, but not for counties.

Loss of Historic Structures and Historic Character

Loss of historic structures and historic character	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem					
Minor issue or problem		X		X	

The regional land use element of GMRDC indicates that there is a need for the protection of historic resources in the region's downtowns, and that several cities have cited concerns about the decline of their downtown areas.

The regional land use element for the Middle Flint RDC indicates a need, identified in Sumter County's comprehensive plan, to establish land use standards for property adjacent to the Andersonville National Historic Site. According to the regional land use element, such standards have not yet been developed and implemented. The situation in Sumter County may be representative of the need in other jurisdictions without zoning ordinances to control areas around national monuments and historic sites and protect their integrity from incompatible or ill-advised development. As another example, the Middle Flint regional land use element cites the desire of the National Park Service to preserve the rural approach to President Jimmy Carter's boyhood home, which it now owns and operates as a historic site near Plains.

More Attention to Design and Pedestrian Orientation

Land Use Problem or Issue:	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem	X				
Minor issue or problem					

The CSRA land use element advocates more attention to design and a greater orientation to pedestrians.

ENVIRONMENTAL LAND USE PROBLEMS AND ISSUES

Lakefront, Riverfront, and Amenities-Driven Development

Lakefront, riverfront, and amenities-driven development	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem		X			
Minor issue or problem	X		X		X

The regional land use element for the Georgia Mountains RDC cites this issue as one of the more significant land use conflicts, finding that intensive development is occurring around or along lakes and rivers and on mountain tops, ridge lines, and steep slopes. In the Georgia Mountains region, a high rate of development is occurring on and close to Lake Lanier and the Etowah River, resulting in erosion and sedimentation into these waters. The GMRDC regional land use element indicates that most local governments desire to encourage conservation and the preservation of greenspace but that most local governments are intimidated by the complexities of conservation design ordinances.

Clarks Hill Lake is a major stimulus for development in Lincoln County (CSRA). The HOG-A regional land use element indicates that there is a need to adopt river corridor protection ordinances, particularly for the Altamaha River in Wayne County due to scattered residential development. In the Middle Flint region, Lake Blackshear in Sumter County is becoming heavily developed and is expected to witness additional development upon the introduction of a new public water system in the area. Similarly, the Southwest Georgia regional land use element cites concerns about flooding and high density septic tank use due to residential development in the vicinity of Lake Blackshear and Lake Seminole.

Groundwater Quality Degradation

> *…many if not most fringe-area developments use on-site sewage disposal systems, particularly for single-family houses. The on-site systems enable scattered development to occur anywhere the soil will perc. However, the widespread use of on-site septic systems and wells for drinking water can lead*

to water-quality problems and health hazards
(Daniels 1999, p. 13).

Groundwater quality degradation	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem	X			X	X
Minor issue or problem		X			

In CSRA, protection of the Floridan Aquifer is a major concern. Approximately 75 percent of the land area in the Middle Flint RDC is a significant groundwater recharge area. The Middle Flint RDC regional land use element finds that only Crisp County has an ordinance currently in place to regulate the handling of hazardous chemicals so as to protect the integrity of the groundwater recharge area and reduce the potential for contamination of groundwater supplies. The Southwest Georgia regional land use element indicates that "the Floridan Aquifer within the region is one of the world's most productive groundwater resources," and that it is threatened by septic tank use.

Development Within Areas of Natural Hazard

Development within areas of natural hazard	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem		X		X	X
Minor issue or problem					

Natural environmental conditions and factors place limits on land development. Development on hillsides, steep slopes and mountains can be unstable due to slippage and landslides. In the Georgia Mountains region, most of the local governments do not have regulations in place to address problems associated with mountainside or hillside development.

The flooding of the Flint River in 1994 is underscored in the Middle Flint and Southwest Georgia RDC regional land use elements. Montezuma, in Macon County and the Middle Flint RDC region, lost its downtown to the flood, but it was later restored. "The Alberto Flood of 1994 resulted in loss of life and tens of millions of dollars damages to private and governmental properties within the Southwest Georgia Region."

ADMINISTRATION AND ENFORCEMENT OF LAND USE REGULATIONS

Need for Multijurisdictional Cooperation in Land Use Regulation

Multijurisdictional cooperation in land use regulation	Regional Development Center – Land Use Element				
	Central Savannah River Area	Georgia Mountains	Heart of Georgia-Altamaha	Middle Flint	Southwest Georgia
Major issue or problem	X				X
Minor issue or problem		X	X		

The CSRA land use element finds that "not every county or city in the region can afford to enforce new zoning ordinances, building codes, or subdivision regulations." It finds further that the "cost barrier can become an opportunity for counties and cities to work together and share the cost of a building inspector or a zoning officer." CSRA RDC's regional work program suggests the identification of local governments that are interested in pooling resources to establish joint building inspections or zoning enforcement programs on a regional and sub-regional basis. It also specifically recommends in its work program that Screven and Jenkins County collaborate to hire a building/development inspector to monitor new developments for conformance with local codes and ordinances. This finding suggests that the model land use management system should provide guidance on how to establish such joint or multi-jurisdictional land use management programs.

The Heart of Georgia – Altamaha RDC's regional land use element indicates that because a majority of the region's governments have neither zoning nor any type of codes enforcement in place, there is much potential for the interjurisdictional sharing of zoning and codes enforcement personnel. It cites a need for consistency between jurisdictions in the regulations and tax policies so that undesirable growth does not spill over from one area to another.

The regional land use element for Southwest Georgia indicates that "great opportunities exist within the region for coordinated land use planning and regulatory programs." It finds that "opportunities exist within the region to share land use code enforcement officials as smaller governments generally have less fiscal capacity to employ qualified code officials." It also notes that consolidation of regulatory programs is cost effective and can provide regulatory services to small cities which could not afford them.

The lack of enforcement of existing land use regulations is cited as an issue of concern in the comprehensive regional plan for the Georgia Mountains region.

CHAPTER FOUR
LOCAL LAND USE PROBLEMS AND ISSUES

In this chapter, we present the results of our review of local land use elements and short-term work programs. The purpose of this chapter is to illuminate specific examples of local land use problems and issues, and the status of land use regulations in those localities. The process of selecting the local case studies was the subject of much discussion between the consultant and DCA staff. The research that informed the selection of local governments is provided in the Appendix.

In this chapter, we seek answers to the following questions:

1. What are the local land use problems and issues in the local case study jurisdictions?
2. What regulations, if any, are in place now in the case study areas?
3. Have the local jurisdictions considered and tried adopting a conventional zoning ordinance? If the ordinance proposal was not adopted, why not?

The local jurisdictions are shown in Table 4. A narrative discussion about each of the local jurisdictions follows. There are fourteen of Georgia's sixteen regional development centers represented in the sample.

Table 4
Local Land Use Elements Reviewed

RDC	Cities Included (County Location)	Counties Included
Coosa Valley		Dade
North Georgia		Gilmer
Georgia Mountains		Lumpkin (others noted)
Northeast Georgia	Bowman (in Elbert Co.)	
Chattahoochee-Flint	Ephesus (in Heard Co.)	
McIntosh Trail	Orchard Hill (in Spalding Co.)	
Middle Georgia	Toomsboro, Irwinton	Wilkinson
Central Savannah River Area	Dearing (in McDuffie Co.)	
Lower Chattahoochee	Cusseta (in Chattahoochee Co.)	
Middle Flint	Buena Vista (in Marion Co.)	
Heart of Georgia-Altamaha	Cadwell, Dexter, Dudley, Rentz (In Laurens Co.) Soperton (in Truetlen Co.)	Laurens; Treutlen
Coastal Georgia	Ludowici	Long
South Georgia	Alapaha (in Berrien Co.)	
Southeast Georgia	Hoboken, Nahunta (in Brantley Co.)	
TOTAL	17	7

COUNTY CASE STUDIES

Dade County

Development Trends. Dade County is less than twenty miles from downtown Chattanooga, yet it is still somewhat isolated due to the configuration of the highway system. The County's only municipality is Trenton. The unincorporated county population increased by 15 percent from 1990 to 2000, and Dade County's comprehensive plan projects a growth rate of a little more than five percent from 2000 to 2010. The county is mostly rural, and the economy is based primarily on agribusiness, but suburban growth is beginning to spillover from the Chattanooga area. Poultry production currently contributes 85 percent of the farm value in the county, and in the past ten years, there has been a significant increase in the number of agricultural service-related jobs. A primary goal of Dade County's comprehensive plan is to preserve its agrarian economy and rural character. Because of the County's rural setting and lack of urban services, the most common affordable housing option is manufactured housing. The current housing stock is approximately one-third manufactured housing units.

Conditions and Resources. Dade County is geographically isolated, with Lookout Mountain on the county's east side and Sand Mountain on the west side. The highway system does not provide good access into Dade County, and one must go through Tennessee or Alabama to travel into Dade County from elsewhere in Georgia. The lack of roads causes other problems, as well. The comprehensive plan identifies a "wildland–urban interface" fire problem due to residential development being sited on mountain ridges and in rural forested areas. Inadequate roads and bridges create access problems for fire fighting equipment. While placing challenges on road construction, the mountains in Dade County provide the scenic resources that create an opportunity for increased tourism. There is a hang gliding park on Lookout Mountain that holds tournaments that attract nationwide attention. The comprehensive plan recognizes the potential to expand eco-tourism opportunities if the Lookout Mountain-Pigeon Mountain environmental corridor could be protected. Dade County also has a wealth of Native American historic sites, historic mining operations and sites, and a portion of the area where the Civil War Battle of Chickamauga was fought. Land use controls in these areas would preserve resources for future tourism opportunities.

Status of Plan Implementation. The Dade County Comprehensive Plan does not identify the development of a zoning ordinance as one of its activities. However, the short-term work program does identify the need for development standards to address the county's particular issues, which including the following: encouraging good land use management for floodplains, steep slopes, and environmentally sensitive areas; considering measures to protect wetlands, water supply watersheds, and groundwater recharge areas; identifying and expanding county services in growth areas that currently lack services; encouraging a suitable mix of housing styles; encouraging residential development in areas that can be served with existing services; and providing for quality multi-family and manufactured housing through design and aesthetic standards.

Last year a committee of citizens approached the Dade County Board of Commissioners with a sample zoning ordinance from a nearby county. The commissioners considered the ordinance and held a public hearing, which was attended by a large number of citizens in opposition to the ordinance proposal. The ordinance was not approved and has received no further consideration. In January, 2001, a large waste company proposed to develop a regional landfill in Dade County. This precipitated the appointment of a study committee to look into appropriate

land use regulations. Coosa Valley RDC was asked to provide sample ordinances from surrounding local governments, but no further action was taken once the samples were provided.

Summary of Land Use Problems and Issues. The following land use problems and issues exist in Dade County: "wildland–urban interface" fire problems; providing an adequate road system for emergency services; protecting scenic and historic resources; the need for subdivision regulations to address quality residential growth; locally unwanted land uses (LULUs), such as landfills and hazardous waste facilities; and the need for careful site location decisions due to the sensitive environmental setting.

Lumpkin County

Development Trends. Lumpkin County represents a moderately-fast growing county based on 1990-2000 population change. Approximately 6,000 persons were added to the unincorporated population between 1990 and 2000. Lumpkin County is not part of the metropolitan Atlanta area, but with access to Georgia 400, it is within reasonable commuting distance of the north metropolitan Atlanta job centers in Alpharetta and Forsyth County. Georgia 400 has greatly improved Lumpkin County's accessibility to jobs, goods, and services in the metro Atlanta area, and Lumpkin County's scenic areas and rural qualities (see discussion below) make it very attractive for additional residential development. Accordingly, it is starting to witness exurban growth pressures.

Lumpkin County has traditionally been very rural, with an emphasis on agriculture. Approximately 25 percent of the county's housing stock is manufactured housing, and due to the lack of public water and sewer in unincorporated areas, this type of housing is the primary type of affordable housing. Future residential growth is expected to consist of golf course subdivisions, mountain resorts, and second home developments. These types of growth will undoubtedly create land use conflicts as rural and agricultural lands are converted to more intense uses. In addition, strip commercial growth is beginning to occur along the GA 400 and GA 60 corridors, and it has spread rapidly as predicted in the county's comprehensive plan.

Conditions and Resources. Lumpkin County has enormous scenic and historic resources, including the southern terminus of the Blue Ridge Mountains and the site of the nation's first gold rush. Dahlonega, the county seat, is the location of North Georgia State University and has a vibrant downtown oriented to tourism. A number of organizations including churches, the Georgia 4-H club, and the U.S. Army, own and operate camps in Lumpkin County. A new folk school is being organized and will add to the area's thriving tourism industry. The Chestatee River is not only a scenic resource for the county, but also a headwater of Lake Lanier and a "protected river corridor" as designated pursuant to state law. In addition, Mountain and River Corridor Protection Act standards are also supposed to apply to most of the mountainous areas of Lumpkin County. Lumpkin County has not yet enacted (and has recently resisted adopting) the protection standards required to preserve these scenic and sensitive resources.

Status of Plan Implementation. With the exception of subdivision regulations, Lumpkin County currently has no land use controls in place. The county developed a future land use plan which predated their comprehensive plan; this pre-existing plans was later incorporated into the comprehensive plan. The county's comprehensive plan and subsequent update of its short term work program both identify the need for enforcing standard building codes, revising its subdivision regulations, and developing a zoning ordinance and a unified development code. In 1998, Lumpkin County prepared a zoning ordinance with the assistance of Georgia

Mountains RDC. Against the RDC's recommendations, the commissioner put the zoning ordinance to a referendum vote, and it failed. There is a new commissioner in Lumpkin County, but there appears to be little interest in adopting a zoning ordinance.

Summary of Land Use Problems and Issues. Lumpkin County's comprehensive plan identifies a number of specific land use problems and issues. Without elaborating on them here, they are listed as follows: balancing manufactured housing with site-built housing; automobile junkyards and junked vehicles in residential areas; automobile body shops; agricultural/residential land use conflicts; preservation of forests and wilderness; sustaining eco-tourism and historic tourism opportunities; compliance with mountain and river corridor protection act standards; provision of urban services in growth corridors/areas; commercial and residential use conflicts; strip commercial development; poor quality residential developments; and leapfrog residential development.

Other Counties in the Georgia Mountains Region

According to Larry Sparks, Director of Planning for Georgia Mountains RDC, there has been a recent trend for currently unzoned counties in the Georgia Mountains region to draft zoning ordinances but then to vote them down either because of referenda on the zoning ordinances or based on vociferous public opposition. As a result, plan implementation has consistently failed in some of the counties in the region. As noted above, Lumpkin County held a referendum at which zoning was defeated by public vote. Similarly, White County drafted a zoning ordinance, but then put it to a ballot vote and it too failed.

Stephens County drafted a zoning ordinance, but after public hearings, Commissioners received death threats because of their consideration of zoning and so they abandoned the zoning proposal. A similar scenario occurred in Hart County, reports Larry Sparks. Franklin County has considered a zoning ordinance proposal, but it is now reportedly on hold due to a change in government structure from a three-person to five-person Board of Commissioners. There is reportedly "no interest at all" in pursuing zoning regulations in Towns and Union Counties.

Gilmer County

Development Trends. Since 1970, Gilmer County has grown at a rate that exceeds the state population growth rate. The county's comprehensive plan attributes this growth to the easy access to the metro Atlanta area via the Appalachian Highway, the scenic character of the area, and affordable real estate. The county is largely rural, with a large percentage of land in agricultural use. Gilmer County's major industrial employer is Gold Kist, and poultry growing is a primary agricultural activity. Therefore, the current trend of sprawl-type development is leading to conflicts in land uses, particularly between agricultural, residential, and commercial developments. Strip commercial development is becoming an issue along the Appalachian Highway and other major transportation corridors, particularly around the county seat of Ellijay. The county's housing stock has increased significantly in the past thirty years. Growth in second homes has been significant. The largest sector of housing, however, remains manufactured housing—almost one-third of the county's housing units are manufactured homes.

Conditions and Resources. Gilmer County is unique in Georgia. It is the apple capital of the state, and it is also one of the very few counties that has all five of the environmental resources to be protected under Georgia's Part V environmental planning standards: water supply watersheds, groundwater recharge areas, wetlands, protected river corridors, and protected

mountains. The Coosawattee River is a protected river corridor, yet the most densely developed area of the unincorporated county is along the banks of this river. If Gilmer County is to maintain its title as apple capital, then it must find a way to balance its current growth trends with the preservation of agricultural lands.

Status of Plan Implementation. The Gilmer County Comprehensive Plan identifies numerous activities to address the county's concerns about development, including revision of subdivision regulations, adoption of state building codes, development of manufactured housing performance standards, adoption of environmental regulations to comply with the Part V environmental standards, and preparation and adoption of unified land development regulations. Upon adoption of its comprehensive plan, Gilmer County appointed a Planning Commission to work with North Georgia Regional Development Center to prepare a zoning ordinance. Although the Planning Commission reportedly did an excellent job in preparing the ordinance, they did not involve the Board of Commissioners, nor did they undertake any public education in support of the proposed ordinance. Consequently, no one understood the public's depth of sentiment against zoning. The lack of public education about the proposed zoning ordinance, and the lack of involvement by the elected officials, appears to have been its downfall.

In the last election, a straw poll on zoning was placed on the ballot. Even though the issue passed by a slim margin, subsequent research showed that support for zoning came from residents of Ellijay and East Ellijay, and that in the unincorporated area, citizens overwhelmingly opposed zoning. However, citizens greatly favor subdivision regulations that promote conservation open space standards, and if adopted, this would provide the county with an opportunity to begin addressing some of its growth management issues. Gilmer County has enacted building codes and subdivision regulations, giving it some of the requisite tools needed to further tackle its land use issues.

The Region I Regional Advisory Council recently undertook a strategy session to address local and regional growth management needs. The major issues identified in Gilmer County include a lack of funding for infrastructure, a lack of staff capacity for code enforcement, the need for public education regarding growth management (aimed both at the general populace and developers), a general lack of trust in government, and a recognition that there is a strong private property rights sentiment in the county.

Summary of Land Use Problems and Issues. Land use problems and issues in Gilmer County include: second home development; the need for a balance of manufactured and site-built housing; preservation of agricultural land (particularly the production of apples) and the use of chemicals and fertilizers to promote apple production; poultry operations and the conflicts caused to surrounding land uses; and strip commercial development along Appalachian Highway.

Laurens County and Selected Municipalities

Development Trends in Laurens County. Laurens County is the most populated of the counties in our sample (see Table A-2). Interstate 16 bisects the center of Laurens County. Its most populated city, Dublin, is the center of the Heart of Georgia-Altamaha region. The county population growth rate for 1990-2000 was moderate, but its unincorporated population increase has been significant. Laurens County is by far the largest case study area, geographically. The regional land use element for the Heart of Georgia-Altamaha region indicates that the growth of the Macon metropolitan area has influenced growth in Laurens County. It also indicates that the county has many industries, but they occupy less than one percent of the total land area. The

interchange of I-16 and US 441 has developed commercially over several years, and regional planners anticipate new growth at the I-16 and SR 257 interchange where Best Buy has announced plans to construct a regional distribution center. SR 257 is scheduled to be improved to four lanes from the interstate to Dublin, raising prospects that strip commercial development may occur. Furthermore, regional planners indicate that Dublin may extend infrastructure to the SR 19 interchange with I-16, for purposes of economic development.

Conditions and Resources. Unincorporated Laurens County is considered "very rural," with a slow pace of development. The comprehensive plan predicts that the pace of development will continue to be slow, and the future land use plan designates 4,000 acres for new residential development (1992-2012). The slow pace of development is the most probable reason for Laurens County's lack of implementation of land use regulations. Approximately 60 percent of the county's land area is forested, and another 34 percent is agricultural. Hence, 94 percent of the land area could be classified as "resource use," excluding extractive industries. The comprehensive plan makes note of "poor drainage and soil erosion" on farmlands as a problem. The plan also establishes a goal of agricultural preservation.

More than one-third (38.9%) of the county's unincorporated housing stock in 1990 consisted of manufactured homes. This contrasts sharply with the figure for the City of Dublin, where only 4.7 percent of the city's housing stock were manufactured homes. This suggests that manufactured homes are regulated, or priced (or both) out of the county's major urban area and into the unincorporated areas, which are not served by public water or sanitary sewer. The plan acknowledges that much of the development will continue to scatter in a low density fashion along county paved roads. However, the plan suggests major residential development should occur just outside municipalities, especially around Dublin and East Dublin (presumably where public water and sewer service has been or can be extended). The plan also recommends infilling within municipalities.

One of the more significant resources in the county is the Oconee River, which is a "protected river corridor" and is also the only scenic area identified in the Laurens County comprehensive plan. Unlike the problem identified in Chapter 3 relative to riverfront and "amenities driven" development in other regions, much of the land in Laurens County along the Oconee River has not yet been exposed to development pressures. The lack of development pressure is attributed in the comprehensive plan to the facts that many of the lands are large agricultural tracts, and because a high water table exists, rendering the riverfront properties unsuitable for development.

Status of Plan Implementation. The 1995 joint comprehensive plan for Laurens County and its municipalities proposed that the county develop and adopt countywide zoning regulations, land subdivision regulations, and building and housing codes. The updated short-term work program and report of plan accomplishments for Laurens County indicates that, although land subdivision regulations were adopted in 1995, the county postponed developing a countywide zoning ordinance until 1999. The reason given for such postponement was simply, but understandably, "local politics." The county also postponed adoption of building and housing codes until 1999. The comprehensive plan also proposed that the county "study the possibility of developing land use controls that will strive to protect floodplains, wetlands, watersheds, and groundwater recharge areas," but those efforts too were postponed. Laurens County's land area includes significant groundwater recharge areas, some wetlands, and floodplains, but the county is not participating in the flood insurance program.

Rafael Nail of the Heart of Georgia-Altamaha RDC worked on a zoning ordinance for Laurens County for a year. During the time it was being prepared, the Laurens County attorney decided it needed to be simplified, so he started revising it, removing parking standards, sign standards, and Part V standards. The closer to adopting the ordinance that the county they got, the worse the opposition became. Some commissioners' cars were vandalized in the parking lot. The development authority, which had been a proponent of the ordinance, withdrew support. At the adoption hearing, it was taken over by the vociferous opponents, so Laurens County commissioners did not adopt the zoning ordinance. One commissioner lost his seat in the next election over the issue of zoning, reports Nail.

Municipalities. Four cities within Laurens County are included in our analysis, none of which has a zoning ordinance in place. **Cadwell** is a small town geographically (827 acres) consisting of mostly residential uses with a large-lot rural character, no industrial uses, a correctional institute, and a central business district that "has very little life left in it." Of the town's 827 acres, 300 acres are agricultural and 253 acres are classified as vacant in 1995. Only fifty acres of new residential development are projected during the twenty-year planning horizon in the city. Because of its rural, isolated nature, Cadwell will have a very slow pace of development. However, it is significant that the city is served with public water and sewer and has much vacant land with city services that could be developed. Instead, it appears that unincorporated rural sprawl is siphoning off whatever growth is occurring in rural Laurens County when some of it could just as easily take advantage of water and sewer services and locate inside Cadwell.

The city of **Dexter** is an example where the central business district has been abandoned and there is a need for aggressive revitalization strategies. Like Cadwell, the majority of land in the city of Dexter is agricultural and undeveloped (as of 1995), yet it has public water and sewer services. It also has few development constraints, as it has no significant groundwater recharge areas, wetlands, or flood plains. Also like Cadwell, Dexter is expected to add only about 50 acres of new residential development during the planning horizon. The very slow rate of development and a stagnant population suggest that the city has no development pressures that would stimulate the need for land use regulations. A third city, **Rentz**, has no sewer and is a slow growing rural community with large residential lots, a two-block central business district, and few if any growth pressures.

The city of **Dudley** is also a small city in Laurens County, although with 2,000 acres it is larger than Cadwell, Dexter, and Rentz. Some 43 percent of the land in the city is agricultural, while another 43 percent is vacant. It contains one farm-related industry and an inactive central business district. However, an industrial park was under development and planned for annexation by the city, which provides water and sewer services. Only 36 acres of new residential development are projected inside the city limits.

Dudley is the only one of four cities in Laurens County included in this analysis that is located north of (and close to) Interstate 16. Dudley annexed a large territory extending out to the interchange of SR 338 with Interstate 16. Presumably, such an annexation would be for a future tax base. However, the city's future land use plan designates the area around the I-16 interchange as undeveloped and agricultural, not commercial. Since the land is not designated for urban use, one might label this a problem of "premature annexation." That is, the city has annexed property that is not needed for urban development within a short-term, much less a twenty-year, horizon. Per interview with Rafael Nail, the City of Dudley is currently working with the Heart of Georgia-Altamaha RDC to prepare and adopt a zoning ordinance.

Summary of Land Use Problems and Issues. Our review of the comprehensive plan for Laurens County and its municipalities, as well as a review of the regional land use element, leads us to the following conclusions about land use problems and issues, summarized below.

Land Use Problem or Issue	Unincorporated Areas	Incorporated Areas
Rural scatter	X	
Need for agricultural preservation	X	
Vacant land served by public water and sewer but not utilized – need for infill		X
Inactive and deteriorating downtowns		X
Premature annexation (e.g., Dudley)		X
Strip commercial development potential	X	X
Possible future development along Oconee River	X	

Wilkinson County and Selected Municipalities

Development Trends in Wilkinson County. We reviewed the Joint Comprehensive Plan for Wilkinson County and the cities of Allentown, Gordon, Irwinton, Ivey, McIntyre, and Toomsboro. The only two cities included in our analysis are Irwinton and Toomsboro. With a population of approximately 10,000 persons, Wilkinson County's land use patterns consist mostly of residential development within its several cities, very limited but scattered residential development in the unincorporated areas, and scattered industrial uses which are primarily Kaolin mines. In the unincorporated areas, some 91 percent of the land area is forest and agriculture, with the vast majority being pine forests.

The comprehensive plan (1995) projects the unincorporated portions of Wilkinson County will lose more than 1,000 persons between 1990 and 2015. Decennial census figures indicate that Wilkinson County population declined very slightly between 1990 and 2000, but the unincorporated population actually grew slightly (by less than 200 persons). This finding implies greater loss of population in the municipalities than in unincorporated areas. The comprehensive plan indicates that "no significant development has occurred in Wilkinson County." Most of the unincorporated growth that has occurred has been in the northwest corner of the county, near the cities of Gordon and Ivey. Manufactured homes comprise approximately 27 percent of the housing stock in unincorporated areas. The county's future land use plan is virtually identical to the existing land use map, suggesting little additional development will occur in Wilkinson County during the twenty-year planning horizon. The only notable difference between the existing and future land use maps for Wilkinson County is an area of residential growth outside the city of Ivey (not included in this analysis), which was in the process of preparing a zoning ordinance.

Conditions and Resources. The comprehensive plan alludes to several local land use problems and issues. Much of the land in unincorporated Wilkinson County is held in reserve by Kaolin mining companies, and the plan implies that there may be possible conflicts between future suburban development and mining activities (due to digging, truck traffic, etc.). The plan also finds that Kaolin mining is, almost by definition, "detrimental" to forest resources. Regional planners who prepared the Wilkinson County comprehensive plan recommended "monitoring

compliance with the Georgia Surface Mining Act of 1968" and also implied the need for best management practices for forestry and timber operations. As further evidence of some concern about forestry and mining activities, the plan indicates that the county should "monitor reclamation and retimbering activities by Kaolin and forestry companies."

The entire northern two-thirds of Wilkinson County is a significant groundwater recharge area (Cretaceous aquifer). The comprehensive plan indicates that, due to the size of the significant groundwater recharge area, protection strategies must incorporate a regional approach. The Oconee River, which is a "protected river corridor," forms the eastern boundary of the county. The soils along the Oconee River are poorly suited for development. The comprehensive plan finds that no development within the river corridor has occurred and none is proposed, although there are no zoning rules in the event development is proposed there.

The land use element for Wilkinson County indicates that the county should consider the use of land use controls "for the preservation of agricultural and forested land in the nongrowth area," implying that growth should be contained within or around cities via a greenbelt. The comprehensive plan also indicates that the regulations should promote visual quality and contain additional standards to improve the conditions of mobile homes and manufactured homes.

Status of Plan Implementation. The comprehensive plan supports establishing a common zoning ordinance for Wilkinson County and its municipalities and a common planning and zoning board. The short-term work program called for Wilkinson County to initiate a permitting process in 1997, consider a development ordinance in 1998, and hold educational workshops on the proposed ordinance in 1999. This work program, though not fulfilled, represents a recognition on the part of regional planners who prepared the comprehensive plan that adoption of countywide land use regulations would require a sustained educational effort as a prerequisite.

Municipalities. Irwinton, the county seat, lost some 200 people and declined in population by 24 percent from 1980 to 1990. Its population was 641 persons in 1990, and the municipal population declined by another fifty or so persons between 1990 and 2000. Irwinton's land area consists of 2,097 acres, 78 percent of which is agriculture and forest. Although only three historic structures are shown in the comprehensive plan, it identifies a potential historic district. Irwinton has a water system with two city-owned wells, but it has no sanitary sewer system. The city's plans indicate there will be no growth through 2015, and future land use figures indicate a decline in residential acreage. The city encompasses a recharge area. Irwinton participates in the flood insurance program. The short-term work program for Irwinton indicates the county was to adopt a zoning ordinance, a tree ordinance, and protection criteria for groundwater recharge areas and wetlands.

Like Irwinton, **Toomsboro** declined in population from 1980 to 1990 but its population loss was much less significant. Between 1990 and 2000 the city's population increased slightly, although the comprehensive plan shows a loss of 100 persons in the city by the year 2015. The loss of population was attributed by regional planners to the closing of Kaolin mines. With some 1,200 acres, Toomsboro is 69 percent agriculture and forest. The plan identifies 14 historic structures and contains a map showing potential historic districts extending along highways in the city. Toomsboro has a water system with one well but no sewer. Like Irwinton, the comprehensive plan projects a decline in residential acreage within Toomsboro. Toomsboro is not participating in the flood insurance program.

Land use problems and issues are generally the same for Irwinton and Toomsboro, at least as reflected in the comprehensive plan. Both cities need to "ensure compatibility" in future land uses, implying that incompatible development has occurred in the past. Irwinton and Toomsboro both have policies supporting the regulation of the appearance of mobile homes/ manufactured homes, and the removal of abandoned automobiles and other junk. The plan also supports adoption of groundwater protection criteria and a tree protection ordinance for these two cities.

Summary of Land Use Problems and Issues. Land use problems and issues in Wilkinson County and the cities of Irwinton and Toomsboro are summarized below.

Land Use Problem or Issue	Unincorporated Areas	Incorporated Areas
Need for agricultural preservation	X	
Monitoring of mining activities and conflicts with residential uses	X	
Better practices for forestry operations	X	
Manufactured home compatibility/conditions	X	X
Groundwater recharge area protection	X	X
Historic district designation potential		X
Need for removal of junk vehicles and junk		X
Tree protection		X

Treutlen County

Treutlen County adopted a zoning ordinance in 1999, then repealed it. Rafael Nail of the Heart of Georgia-Altamaha Regional Development Center reports that the RDC worked with the county for over a year, adapting the RDC's small city model zoning ordinance to fit the county's needs. According to Rafael Nail, zoning was initiated in Truetlen County primarily because the county did not like "out-of-towners" buying up timber tracts. The commissioners worked on the zoning ordinance, and they assigned responsibility for reviewing the document to the county attorney and tax commissioner. A number of public hearings were held on the zoning ordinance, and opposition to the ordinance declined throughout the process. Once the ordinance was adopted, Truetlen County appointed a Planning Commission and assigned all zoning administration responsibilities to the Tax Commissioner. Rafael Nail reports that Treutlen County's very first zoning case involved a woman requesting to put a mobile home in her back yard as rental property to help generate some income. When it was denied, she vociferously complained. The commissioners subsequently repealed the ordinance. Clearly, the major obstacle to administration of zoning in Truetlen County is a lack of political will.

Long County and Ludowici

Development Trends. During the period 1970 to 1990, population in Long County has nearly doubled, from 3,700 population to 6,200. By contrast, the City of Ludowici lost population during the same time period, from 1,400 in 1970 to 1,291 in 1990. Year 2000 census data indicate current populations are 10,304 for Long County and 1,440 for Ludowici. The city/county comprehensive plan attributes growth to the operation of Fort Stewart Military Base. Projections for the year 2010 indicate that the population of Ludowici will remain static, while Long County is expected to increase to approximately 8,500 persons (a figure already exceeded in the year

2000). Long County is primarily rural, and there are many miles of unpaved roads in the unincorporated area. Residential development is occurring on these unpaved roads, which are inadequate to meet the traffic demand created by the new development. The comprehensive plan recognizes the need for subdivision regulations and a zoning ordinance to address this problem. The plan also recognizes the occurrence of home businesses, home occupations, and rural businesses in the rural areas of the county, and it articulates the need for regulations that will accommodate these types of mixed uses in the county.

Conditions and Resources. The comprehensive plan estimates that 42 percent of Long County's land area may be defined as jurisdictional wetlands regulated under Section 404 of the Clean Water Act. The Altamaha River is a protected river corridor, but since the floodplain is so extensive, the establishment of a 100-foot protective buffer on each side of the river has minimal impact. The 100-year floodplain is coincident with wetlands in Long County, and therefore, these areas are considered undevelopable. In addition, there are extensive coastal marshes, which are protected by state and federal regulatory programs. Long County and Ludowici are participating in the Coastal Zone Management program.

Ludowici has a public water system. Water is supplied by municipal wells. In Long County, all water is supplied by domestic wells. Therefore, protection of groundwater resources is critical to Long County and Ludowici. The comprehensive plan identifies the need to address the placement and construction of wells in building codes and subdivision regulations.

Forty percent of Ludowici's housing stock and fifty-six percent of the county's housing stock is manufactured housing. The reason for this high ratio of manufactured housing is the need for temporary housing associated with military personnel assigned to Fort Stewart. The plan finds that most of these homes are not properly installed. Without building permits, the county has little supervision over the proper placement of these housing units.

Status of Plan Implementation. The Long County-City of Ludowici comprehensive plan recognizes the need for subdivision regulations and zoning as tools for maintaining and enhancing scenic areas. The plan also identifies the need for both the city and county to adopt zoning ordinances, institute building permit systems, and initiate code enforcement programs. Other actions identified in the short-term work program to address development issues include updating building codes, enforcing manufactured housing licensing requirements, and encouraging the location of residential development where public facilities are available. The short-term work program suggests that the city and county implement zoning by 1997. The plan recommends that the following issues be addressed in a future zoning ordinance: agricultural land use protection; home offices, home occupations, home businesses, rural businesses and mixed-use development; sign regulations; parking requirements; substandard and undevelopable lots; manufactured home placement and safety; distance from fire protection and emergency medical services; existing road conditions; traffic counts; and water and sewer capacity.

Summary of Land Use Problems and Issues. The following land use problems and issues are evident in Long County and Ludowici: location and construction of domestic wells in unincorporated areas; the proper placement and safety of manufactured housing in both the county and city; protection of scenic resources countywide; commercial strip development in the city and county; traffic problems and poor emergency access on unpaved roads in the county; protection of groundwater resources; the need to encourage compatible uses in rural areas; and the need to provide affordable, temporary housing for military base personnel.

SELECTED MUNICIPALITIES

Alapaha

The City of Alapaha is a small town (646 acres) located in Berrien County on US 129 and US 82. It serves as a minor service center for much of the surrounding rural area, and unlike some of the other small towns included in this study, growth is expected there throughout the planning horizon. Alapaha is very rural, but is touched by Corridor Z. Also, the state route that runs through Alapaha and crosses Corridor Z is creating the potential for strip commercial development. From the city's comprehensive plan, the major land use trends that are evident are as follows: the abandonment of an east-west rail corridor (which may also have left behind some obsolete land uses and/or abandoned properties), additional commercial and industrial development along US 82, a high percentage (more than 30 percent) of the housing stock in manufactured homes, and the need for infill development. The city has a recognizable central business district, numerous historic buildings, and an urban service area that corresponds with its existing water and sanitary sewer service areas. Annexation for industrial development is reflected in the plan.

With regard to land use regulations and plan implementation, Alapaha's short-term work program indicates an intent to develop interlocal agreements for shared code enforcement services with Berrien County and Nashville. However, the work program also indicates that the "county failed to set up an enforcement program." Adoption of a zoning ordinance, which was scheduled in the initial short-term work program, has been postponed until the year 2000. Similarly, adoption of building codes and subdivision regulations were postponed. The city was also waiting on flood plain maps from the Federal Emergency Management Agency prior to adopting a floodplain management ordinance.

David Sutton of the South Georgia RDC confirms that zoning has not been tried in Alapaha, but that it is proposed in the city's updated short-term work program. Alapaha recently adopted building codes and a Part V wetlands notification ordinance. These are implemented using part-time services from the county. The city has a very small staff, so a lack of administrative capacity is clearly a limitation. There is a standing Berrien County (county-wide) planning advisory committee. It is in the process of being downsized, according to David Sutton, but the county board of commissioners is proposing an addition to its FY 2002 budget to hire staff and offer administrative assistance to municipalities to implement zoning. Hence, prospects are good that an intergovernmental cooperative arrangement for land use management might work here.

Bowman

The City of Bowman, which is located along SR 17 in Elbert County and the Northeast Georgia region, consists of 3.1 square miles of area (approximately 2,000 acres). It is still predominantly agricultural, with 41 percent of its land area devoted to agricultural uses. The most significant land use trend is anticipated to be the conversion of agricultural lands within the city limits to residential land uses. Commercial land development will also increase modestly. The city's policies, which are combined with those of Elbert County and Elberton, reflect some concern for protecting compatibility so that "radical changes do not severely disrupt the resident's lifestyles." Policies for Bowman suggest that a sign ordinance and "permanent and transitional buffer areas

to separate incompatible land uses and protect environmentally sensitive areas" should be adopted. Bowman's plan policies also reflect concern about access issues, such as restricting the number of curb cuts onto major thoroughfares and discouraging residential development from fronting along highways. Policies also suggest that the city should "restrict industrial uses with nuisance characteristics to those areas removed from residential development" and "provide adequate buffering of industrial land uses from other incompatible land uses." The short-term work program, 1999-2003, suggests that the city will adopt ordinances implementing environmental planning criteria and tree protection.

Elbert County does not have zoning. The "Z" word is a "no-no" in Elbert County and Bowman, reports Lee Carmon of the Northeast Georgia RDC. Bowman has never tried to implement zoning, in Lee Carmon's memory. Mobile homes became an issue several years ago, so the city passed a mobile home ordinance which regulates manufactured homes in subdivisions. The city also passed a "Part V" ordinance addressing water supply watersheds, groundwater recharge areas and wetlands. However, the city adopted the RDC's model ordinance with the blanks not filled in, and without a public hearing. The RDC helped them adopt the ordinance correctly.

Bowman is a small city, and it has little administrative capacity to administer land use regulations. Lee Carmon reports that "any land use regulations for Bowman would have to be REALLY easy." Like other small cities, Bowman has only a clerk and the mayor to run things. Elberton does have zoning and administrative capacity, but it probably would not help Bowman. Lee Carmon reports that there is a lot of "feuding" between the Bowman, Elberton, and Elbert County.

Bowman has a lot of potential, according to economic development and historic preservation professionals on Lee Carmon's staff. There is currently one major industry in town and a lot of vacant store fronts on the town square. Even so, the building stock is excellent, making it ripe for niche market redevelopment. Also important is the fact that GA Hwy 172 has been repeatedly identified as an excellent candidate for scenic highway designation. Lee Carmon questions how much local interest exists to pursue such a designation, however.

Buena Vista

This city is in Marion County, and it is included in a joint city-county plan. Like Bowman, it is a small city with approximately 2,000 acres. Also like Bowman, the major land use trend projected in Buena Vista is the conversion of extensive agricultural lands to developed uses, mostly for residential development. The comprehensive plan for Buena Vista indicates that the city has some "high density residential development with up to ten mobile homes per acre and 6-8 people ["immigrant laborers"] sharing each housing unit."

Buena Vista's short-term work program and report of accomplishments (1996-2000) indicates that the city adopted a mobile home ordinance and has scheduled to adopt a zoning ordinance in 2001. The city's 2001-2005 short-term work program shows adoption of a zoning ordinance and development of a building and housing inspection program are slated for 2001.

Gerald Mixon of the Middle Flint RDC reports that Buena Vista currently does not have any land use regulations, but that they have a real need for a zoning ordinance. He indicates that Buena Vista expressed interest in adopting an ordinance approximately two years ago, but nothing ever happened. He also reports that Buena Vista is currently working with its city attorney to develop a zoning ordinance. The RDC has not been a part of the process. A new mayor was

elected last year, and he sees the need for zoning. Marion County has building codes and zoning, both of which are administered by the tax assessor. However, Buena Vista and Marion County do not agree on much, and they have not been able to work together on anything, reports Gerald Mixon. Hence, whereas a city-county cooperative model for implementing land use regulations might work in certain other rural areas, it appears that city-county relations are too poor to support such prospects in Buena Vista and Marion County.

Cusseta

Cusseta is located in Chattahoochee County south of Columbus-Muscogee County. The text of the land use element for the city does not reveal a discussion of land use problems and issues. However, the report of plan accomplishments is specific on why the city has not implemented certain land use regulatory programs. The city was going to prepare a citywide zoning ordinance and subdivision regulations in 1992 and adopt it in 1993, but the "joint county and city planning commission disbanded" and the effort was "not politically possible." It also planned to develop compatibility standards for mobile homes, but that effort did not occur, either. The city also intended to hire a full-time building inspector/ zoning enforcement officer, but "no action was taken due to possible city/county consolidation." The city's short-term work program update (1997) reveals the city again plans to establish building codes, create a city planning commission, and pass a zoning ordinance in 1998 or 1999.

Dearing

Dearing is a predominantly residential city located in McDuffie County (which recently adopted a zoning ordinance). It is similar in size to other cities included in this section, with approximately 2,000 acres. Like the county, the city is expected to experience growth (it is influenced by metropolitan development trends from Augusta). The plan states that "consideration should be given to the adoption of a zoning ordinance that would provide for a favorable pattern of development." The city's short-term work program indicates an intent to enforce minimum housing codes and a manufactured housing ordinance. Further, it indicates that the city should "reconsider participating with countywide zoning."

Ephesus

The Town of Ephesus is located in Heard County and is included in a joint comprehensive plan with Heard County and its municipalities. Almost half of the land inside the city of Ephesus is used for cattle and poultry farming (940 acres). Ownership patterns in Ephesus reflect "traditional family land ownership and division." The town's development is approximately one-third residential, with a prevalence of manufactured housing, and no industrial land uses. Development is expected to be more significant outside the city limits, where the city has extended its water service area.

The town's short-term work program indicates an intent to adopt formal annexation procedures (1996), adopt housing codes and a zoning ordinance (1997), upgrade its building permit program (1997), adopt an overlay zone for the Centralhatchee Creek watershed (1998), and adopt a tree ordinance (1999).

Hoboken and Nahunta

These two cities are located in Brantley County in the Southeast Georgia region. Nahunta is the county seat, with a current population of approximately 1200. Hoboken has approximately 500

residents. The land areas for the cities are 2,400 acres for Hoboken and 2,560 acres for Nahunta. Both cities are oriented toward the highway system, with commercial development along US 82 and US 301. In Brantley County and these two cities, "wetlands are everywhere." Approximately 100 acres of agricultural lands in Nahunta will be converted to other uses during the long-range planning horizon, but new residential development will be modest in both cities and little additional commercial and industrial development is expected in either city. However, the plan makes note that the cities will put "more commercial activity on US 82 and US 301, with residential development relegated to off-streets." This statement suggests potential problems of strip commercial development and commercial-residential land use incompatibilities.

The comprehensive plan for Brantley County, Hoboken, and Nahunta indicates that "most of the habitable property that is available for development has already been developed." On the other hand, the plan also notes that both Hoboken and Nahunta are "encouraging infill development and will continue to do so." Although the plan makes note of some blighted areas, it does not include reference to Hoboken and Nahunta. However, the plan indicates that "scattered homes in Nahunta are located on dirt roads with no public water or sewer service and low income residents." The decline in the timber industry is cited as one of the reasons for blight. The more significant development trend is one where people are residing on former timberlands along the Satilla River. The work program for the county and cities indicates, simply, "look at development regulations." Hoboken's updated short-term work program (2001-2005) does not include any reference to development regulations.

Byron Hickock of Southwest Georgia RDC reports that Brantley County has been meeting with a citizens committee for several months now to consider enacting some type of development standards. Brantley County is located between Glynn and Ware counties, which both have zoning and are heavily developed. Brantley County is experiencing "spillover" growth from these adjacent counties, particularly the kind where developers do not want to comply with Glynn's and Ware's ordinances. Byron Hickock reports that, at a minimum, Brantley County is interested in enacting subdivision regulations and a manufactured housing ordinance. Neither Hoboken nor Nahunta are participating in Brantley County's process at this time. Both cities have a clerk but no other staff to administer development regulations.

Orchard Hill

The City of Orchard Hill is a very small (165 acre) rural community in Spalding County. It began as a community of neighborhood commercial and industrial businesses oriented along Old Highway 41 which served southeastern Spalding County and northern Lamar County. Orchard Hill is a "wide spot in the road," with a gas station, a liquor store, a trailer park and seven houses. All told, Orchard Hill consists of approximately 150 residents. All of the city's services are contracted for through Spalding County. Orchard Hill does not have zoning because they really have not needed it, reports Adam Hazell of the McIntosh Trail RDC.

The city, which has its own comprehensive plan, has not yet developed and applied its own land use regulations. However, construction inside the city "is required to match county and state building codes and environmental standards." The plan states further that "the absence of zoning in Orchard Hill is not as severe an issue with the small, mostly built out, community as is the need to understand and work with the zoning and future land use plans Spalding County employs for the surrounding areas."

The city is "well suited" to grow as a commercial center, according to the comprehensive plan. Attention is focused outside the city limits, with a need to "focus commercial growth around the

city" and the recognition that "properties around Orchard Hill will become more attractive for subdivision development." Concern is targeted at the development of surrounding unincorporated properties. The plan also indicates that the "lack of presence with the county planning commission" and a "lack of land use regulations" are significant issues. The discussion of future land use in the area describes scenarios, including a continuation of Spalding County suburban sprawl, and establishment of a development review area that would help to "cluster development around Orchard Hill before allowing it to spread throughout the county's agricultural lands." Orchard Hill's work program suggests that the city needs to develop a working relationship with the county planning commission, study the need for/feasibility of land use regulations (including a review of model regulations from Spalding County, McIntosh Trail RDC, and others), and host a work session discussing the benefits and liabilities of implementing land use regulations. The plan implies that any land use regulations that might be adopted would probably be implemented by county staff. The short-term work program also indicates the need to identify and establish regulations for historic structures.

There is the possibility that the south Griffin By-pass will be developed. If that happens, it will create a commercial corridor that will undoubtedly impact the quiet-little-place character of Orchard Hill. Adam Hazell indicates that Orchard Hill will need help on developing a strategy for land use, and as reflected in the comprehensive plan, the city needs to coordinate land use planning and regulation with the county. Land use regulations that could be particularly helpful, in Hazell's opinion, include subdivision regulations, particularly those that will provide for conservation subdivisions (Pike County has had Randal Arendt visit the county and everyone around there is reportedly interested in this new development strategy).

Soperton

Soperton is a small, rural farm city of 2,000 acres in Treutlen County, which is 95 percent agricultural. The city is included in Truetlen County's comprehensive plan. Agriculture is also the predominant land use in Soperton. The city and county have no existing implementation tools to manage land development in the city and outside the city. "The absence of these tools has created some pockets of incompatible land uses" within Soperton. The plan cites the conditions of certain buildings and land uses as "in some cases deplorable." Although few commercial uses exist outside the central business district, one particular problem the city has experienced is that "commercial land use has encroached on the residential land use, creating incompatible land uses without buffers." Most of the residential development that has occurred in Soperton over the last two decades has been the installation of manufactured and mobile homes. The plan finds that the "result of this indiscriminate siting is that mobile homes tend to be incompatibly mixed with other residential and commercial uses." The only land use implementation measure shown in the city's short-term work program (1996-2000) is to "establish a city/county planning and zoning commission."

Summary of Land Use Problems and Issues for Selected Municipalities

The table below summarizes land uses issues for cities identified in this section of the report.

Land Use Problem or Issue	Sample of Small Cities Without Zoning Ordinances								
	Alapaha	Bowman	Buena Vista	Cusseta	Ephesus	Dearing	Nahunta & Hoboken	Orchard Hill	Soperton
Predominance (and conversion) of agricultural uses		X	X		X		X		X
Abandonment of rail corridor	X								
Possible strip commercial development	X						X		
Need for infill development	X						X		
Mobile/manufactured home incompatibility	X			X	X	X			X
Historic preservation	X								
Need for interlocal land use/code or planning cooperation cited	X			X				X	
Commercial-residential land use incompatibilities		X					X		X
Industrial nuisances		X							
Poor access patterns along highways		X							
High density housing for immigrant labor			X						
Need for tree ordinance		X			X				
Concern with surrounding unincorporated area								X	

Source: Compiled by Jerry Weitz & Associates, Inc. based on selected review of comprehensive plans for the above referenced cities.

OTHER LOCAL LAND USE PROBLEMS AND ISSUES

Through our own experience in local land use planning, and interviews with regional and local planners, there are a host of other local land use problems and issues that are not fully captured in the discussions in previous sections. Here, we provide a summary list of additional land use problems and issues that probably require attention in local land use regulations.

- Low Amenity, Poorly Designed Mobile Home Parks
- Premature Land Subdivision
- Poor Quality Residential Subdivisions
- Impact of Extractive Industries
- Junk Vehicles and Junkyards
- Commercial-Residential Land Use Conflicts
- Locally Unwanted Land Uses (LULUs)
- Inappropriate Clearcutting and Forest Practices

CHAPTER FIVE

PROSPECTS FOR ADDRESSING RURAL LAND USE PROBLEMS AND ISSUES

The primary purpose of this report is to identify and illuminate land use problems and issues in rural Georgia and use that information to guide the content of the ALT Z final product—a model land use management system for rural local governments. An outline of a proposed model land development system was prepared as part of our scope of services, prior to completion of this Task One Report. It is fruitful to compare the proposed regulatory elements in that outline (those that are generally accepted in Georgia, and excluding the "innovative approaches") with the results of our research in this report, to see which elements of the proposed code can be confirmed to be needed. In other instances, we may identify components of the land use management system that are needed but were not proposed. This exercise also helps us to place priorities on various elements of the final product, thus guiding the direction of effort for the final task.

In addition, one of the purposes of this Task 1 report is to identify the reasons why local governments in rural Georgia have not adopted land use regulations. We address this question first, then turn our attention to a comparison of our proposed model code outline with the needs identified in the review of regional and local plans.

REASONS FOR THE SLOW PACE OF LAND USE IMPLEMENTATION IN RURAL GEORGIA

A Lack of Building Codes and Permit Systems

DCA and the state's regional development centers are well aware of the importance of having building codes adopted and a permit system in place to adequately enforce land use regulations. If a city or county does not have building permit, development permit, and business registration systems operating, then it cannot realistically be expected to adopt ordinances which rely on them as the principal means of enforcement. We wish to make clear the importance of building codes as a prerequisite to adoption and implementation of local land use regulations, and we cite the need for building codes and permit systems as a first, essential step toward implementing land use regulations. We want to move quickly beyond this point, however, since it was not a part of our work scope to identify trends in that regard.

Lack of an Identified Need for Conventional Zoning

Nearly every local government plan we reviewed cited a need to adopt land use regulations (i.e., zoning). However, this citation may be more of an artifact of Georgia's coordinated planning program than a true reflection of need. That is, we believe that regional planners and the state are strongly suggesting the need for plan implementation, consistent with the provisions of the Georgia Planning Act as interpreted by the Georgia Department of Community Affairs. However, local governments may be saying that they will prepare a zoning ordinance in order to meet state requirements, but without a willingness or political ability to do so.

We find that some of the cities in our sample of plans reviewed are still mostly agricultural with little to no development pressure. Because conventional zoning was not originally designed to address agricultural land uses, some cities may view zoning as an inappropriate tool with regard to solving their land use issues. This is not to say that conventional zoning cannot be used to address agricultural land use issues, but that the perception in rural Georgia may be that it is currently an inappropriate tool. We tend to agree that conventional zoning may not be the best answer to rural land use problems and issues in small, agriculturally based cities. Something less than conventional zoning is needed for small agriculturally based communities. Rafael Nail of the Heart of Georgia-Altamaha RDC (a region without a county zoning ordinance) thinks basic development standards, consisting of setbacks and buffers between differing land uses will be the only type of regulations that would be acceptable to counties in the region. In an interview with Lisa Hollingsworth, Rafael Nail also expressed interest in reviewing the alternative models of land use management to be prepared pursuant to the ALT Z project.

Political Constraints

> *Some landowners, especially those aligned with the wise-use movement, argue that they should be able to do whatever they want with their land. They see their land and house as their largest investment or retirement nest egg, which they will fight to protect. They cite the takings clause of the Fifth Amendment both in opposing any new government land-use regulations and in arguing for compensation for existing government regulations that reduce the value of their land*
> (Daniels 1999, p. 81).

> *Sprawl happens because of a lack of political will on the part of local elected officials to oppose it*
> (Daniels 1999, p. 156).

It should go without saying that political considerations are paramount when it comes to objections and obstacles to the adoption of local land use regulations. We do not feel this point needs elaboration, except to say that less rigid alternatives to conventional zoning may be more politically acceptable in small rural towns and agriculturally based counties.

Lack of City-County Staff for Implementation and Need for Inter-local Cooperation

We did not conduct original research on the status of local staff available for the administration and enforcement of codes and land use regulations. However, there is strong evidence of a lack of available city staff to administer building codes, enforce codes, and manage land use programs. For instance, Rafael Nail of the Heart of Georgia-Altamaha RDC reports that many of the cities simply do not have the administrative capacity to implement zoning. The lack of staff to administer zoning and other codes is driven by financial constraints. Our research reveals several specific instances in which regional and local planners have recommended inter-local agreements and the pooling of local resources to hire code enforcement officers and zoning officials. While local and regional plans point out the need for city-county and even multi-county cooperation with regard to land use regulations, there appears to be a lack of suitable models from which to begin exploring implementation of inter-local agreements and programs for land use regulation. The results of this report clearly indicate such a need.

However, city-county relations are too poor in certain localities and hence, we do not expect that an intergovernmental arrangement for land use management will work in all regions.

REVISITING THE MODEL CODE OUTLINE

This section presents a comparison of our initial outline for the rural land use management system with the results of the regional and local case studies. This comparison is intended to help confirm (or dispute) our initial recommendations relative to the model code's contents. The comparison is provided in Table 5 below.

Table 5
Comparison of Recommended Model Code Outline
With Results from Regional and Local Plan Review

Proposed Element of Model Land Development System for Rural Local Governments	Confirmed by Review of Regional and Local Plans?	Comments
FEMA model floodplain ordinance	Yes, to some degree. Flooding is a problem in some regions studied and there is a need for floodplain management in some localities.	Floodplain regulations are dependent on flood hazard maps from FEMA, and some communities do not have them.
Model ordinances to implement environmental planning criteria	Yes, although we did not focus on this topic, several regional and local plans identify the need for local environmental regulations.	There appears to be a special need for groundwater recharge protection ordinances.
Soil erosion requirements	Some counties and cities have not adopted grading permit and soil erosion requirements.	
Environmental performance standards	No, few regions and local governments reported a need for better environmental controls outside the context of environmental planning criteria.	Some local governments that may be unwilling to adopt a zoning ordinance may still agree to controls that protect the environment.
Subdivision regulations	Yes, to some degree. There are local governments that have not adopted adequate controls on subdivisions.	
Land development and improvement requirements	No. Few if any regional or local plans identified this need, perhaps assuming they are adequately covered under zoning and subdivision regulations.	These are still recommended because there are types of developments that are not covered under zoning or subdivision regulations.
Protecting residential neighborhoods with performance standards	Yes, to some degree. Some of the small cities identified incompatible land use patterns.	A system of setbacks and buffers independent of zoning classifications may be more readily adopted by local governments which cannot politically accept zoning.
Regulating impacts of commercial and industrial development.	Yes, to some degree. There is particular concern with strip commercial development impacts, and to a lesser extent, nuisances from industrial uses.	Our focus should be on aesthetic and functional impacts of strip commercial development and resolving incompatibilities between commercial and residential uses.
Regulations for specific uses	No.	This may still be an alternative to conventional zoning.
Tree protection	Yes, several local governments include tree protection ordinance development in their work program.	A simple scheme for tree protection should be included, as initially proposed.

Proposed Element of Model Land Development System for Rural Local Governments	Confirmed by Review of Regional and Local Plans?	Comments
Sign controls	Yes, a sufficient number of local governments indicated a need for regulation in this regard.	A simplified sign ordinance should be a part of the model code.
Manufactured home compatibility standards	Yes, several local governments cited concerns with this issue and included manufactured home ordinances in their work programs.	
Historic preservation	Yes, to a significant degree in some of the smaller cities.	A model preservation ordinance should be included.

As noted in the first part of this chapter, we believe that the model land use management system needs to focus significant effort on tools for intergovernmental land use regulation and inter-local agreements for the administration of land use regulations. Although we initially recognized a need to address administrative issues associated with the model code, the need for tools to implement inter-local agreements for land use management suggests a much stronger emphasis on this point in our future work.

APPENDIX
METHODS OF SELECTING CASE STUDIES

The scope of work for Task 1 included review of regional and local comprehensive plans in order to inform the analysis of land use problems and issues in rural Georgia. The number of case studies to be completed was not specified in the work, though it was limited by budget and time constraints. Initially, we proposed the framework in Table A-1 to guide the selection of local case studies, in order to provide representation with regard to the broadest range of variables possible:

Table A-1
Initial Variables to Consider in Selecting Case Studies

Variables	**Degrees of Variation**		
Population size	Cities, under 1,000	Cities, 1,001 to 5,000	Cities >5,000 and Counties < 20,000
Development pressure	Decline (none)	Stable	Growing
Relationship to regional growth trends	Outside, not influential	Adjacent to, and likely to be influential	Within, already influential
Administrative capacity	None or low	No professional planner on staff	One or more professional planners
Geography	Coastal Plain	Piedmont	Mountain

To help select local case studies, several tasks were completed. First, we held a meeting with DCA staff to discuss the Task 1 work scope. That meeting resulted in several tentative recommendations for local case studies: Dade County, Lumpkin County, Gilmer County, Wilkinson or Baldwin County, McDuffie County, and Long County (and Ludowici). With assistance of DCA staff, we invited input from RDC Planning Directors, DCA regional representatives, and others about which local governments might be appropriate for case studies of land use problems and issues.

We then studied various aspects of all 72 counties which do not have zoning ordinances, as of 1998. For counties that did not have zoning ordinances in 1998 (Growth Strategies Reassessment Task Force 1998), we compiled year 1990 and 2000 population data with the understanding that a diversity of population classifications might be appropriate. See Table A-3 located at the end of this appendix. We also compiled data on the unincorporated population in these counties in 1990 and 2000, because significant growth in unincorporated was expected to suggest a greater amount and diversity of land use problems and issues, as well as a more compelling need for some form of land use regulations.

We decided that we should achieve as broad a geographic range of local case studies as was possible, for two reasons. First, because we want the model land use management system to be applicable statewide, we needed to choose local case studies in different regions of the state. Second, by choosing local case studies in as many regions as possible, we would maximize the number of RDCs that would be aware of, and possibly promote, the use of the model land use code. For these reasons, we recommended spreading the case study selections around the state. In the final analysis, we selected five RDC regional plans, six county plans and seventeen cities to maximize the geographic representation among the numerous RDCs that have counties without zoning ordinances. This provided a large, but manageable, number of plans to review, while providing good coverage of the state. The names of local governments included in this report are shown in Chapter 4.

Table A-2
Selected Characteristics
Counties Selected for Study

Name	Metro or Urban Growth Pressure	Major Highway Access	Number of Cities	Most Populated City	
				Name	2000 Population
Dade County	Chattanooga	I-59	1	Trenton	1,942
Gilmer County	None	SR 515	2	Ellijay	1,584
Lumpkin County	Atlanta	SR 400	1	Dahlonega	3,638
Laurens County	None	I-16	7	Dublin	15,857
Long County	None	US 84	1	Ludowici	1,440
Wilkinson County	Macon	US 441	7	Ivey	1,100

Table A-3
Population and Land Area of Counties in Georgia
Without Zoning Ordinances in 1998, Classified By Region

Name of County	Regional Development Center	1990 Population (Census)	1990 Unincor-porated Population	1990 Percent Unincor-porated Population	2000 Population (Census)	2000 Unincor-porated Population	2000 Percent Unincor-porated Population	Land Area (Square Miles)
Chattooga	Coosa Valley	22,242	14,525	65.3	25,470	17,948	70.5	313.8
Dade	Coosa Valley	13,147	11,153	84.8	15,154	13,212	87.2	173.9
Fannin	North Georgia	15,992	13,143	82.2	19,798	17,218	87.0	385.8
Gilmer	North Georgia	13,368	11,887	88.9	23,456	21,165	90.2	426.7
Murray	North Georgia	26,147	22,967	87.8	36,506	32,656	89.5	344.4
Pickens	North Georgia	14,432	12,196	84.5	22,983	20,428	88.9	232.1
Franklin	Georgia Mountains	16,650	11,000	66.1	20,283	14,621	72.1	263.3
Hart	Georgia Mountains	19,712	14,174	71.9	22,997	17,761	77.2	232.2
Lumpkin	Georgia Mountains	14,573	11,487	78.8	21,016	17,378	82.7	284.5
Stephens	Georgia Mountains	23,257	14,590	62.7	25,435	15,523	61.0	179.3
Towns	Georgia Mountains	6,754	5,603	83.0	9,319	7,907	84.8	166.5
Union	Georgia Mountains	11,993	11,429	95.3	17,289	16,630	96.2	322.7
White	Georgia Mountains	13,006	11,053	85.0	19,944	17,607	88.3	241.6
Elbert	Northeast Georgia	18,949	12,476	65.8	20,511	14,870	72.5	368.8
Oglethorpe	Northeast Georgia	9,763	8,384	85.9	12,635	11,067	87.6	441.1
Baldwin	Middle Georgia	39,530	21,803	55.2	44,700	25,943	58.0	258.5
Wilkinson	Middle Georgia	10,228	4,641	45.4	10,220	4,812	47.1	446.6
Burke	Central Savannah River Area	20,579	12,672	61.6	22,243	14,288	64.2	830.6
Glascock	Central Savannah River Area	2,357	1,475	62.6	2,556	1,659	64.9	144.2
Jenkins	Central Savannah River Area	8,247	4,439	53.8	8,575	5,083	59.3	349.8
~~McDuffie~~	~~Central Savannah River Area~~	~~20,119~~	~~12,710~~	~~63.2~~	~~21,231~~	~~13,962~~	~~65.8~~	~~259.8~~
~~Screven~~	~~Central Savannah River Area~~	~~13,842~~	~~9,811~~	~~70.9~~	~~15,374~~	~~11,517~~	~~74.9~~	~~648.5~~
Taliaferro	Central Savannah River Area	1,915	1,244	65.0	2,077	1,400	67.4	195.4
Warren	Central Savannah River Area	6,078	3,564	58.6	6,336	3,859	60.9	285.5
Washington	Central Savannah River Area	19,112	10,025	52.5	21,176	10,938	51.7	680.5
Wilkes	Central Savannah River Area	10,597	5,500	51.9	10,687	5,600	52.4	471.4
Name of	Regional Development Center	1990	1990	1990	2000	2000	2000	Land Area

County		Population (Census)	Unincor-porated Population	Percent Unincor-porated Population	Population (Census)	Unincor-porated Population	Percent Unincor-porated Population	(Square Miles)
Clay	Lower Chattahoochee	3,364	1,978	58.8	3,357	2,129	63.4	195.2
Quitman	Lower Chattahoochee	2,209	1,296	58.7	2,598	1,625	62.5	151.6
Randolph	Lower Chattahoochee	8,023	2,994	37.3	7,791	2,745	35.2	429.3
~~Dooly~~	~~Middle Flint~~	~~9,901~~	~~4,567~~	~~46.1~~	~~11,525~~	~~4,674~~	~~40.6~~	~~393.0~~
~~Macon~~	~~Middle Flint~~	~~13,114~~	~~5,295~~	~~40.4~~	~~14,074~~	~~7,022~~	~~49.9~~	~~403.3~~
~~Marion~~	~~Middle Flint~~	~~5,590~~	~~4,118~~	~~73.7~~	~~7,144~~	~~5,480~~	~~76.7~~	~~367.1~~
Schley	Middle Flint	3,588	1,864	52.0	3,766	2,157	57.3	167.6
~~Sumter~~	~~Middle Flint~~	~~30,228~~	~~12,020~~	~~39.8~~	~~33,200~~	~~14,550~~	~~43.8~~	~~485.3~~
~~Taylor~~	~~Middle Flint~~	~~7,642~~	~~4,803~~	~~62.9~~	~~8,815~~	~~5,872~~	~~66.6~~	~~377.5~~
Webster	Middle Flint	2,263	1,833	81.0	2,390	1,862	77.9	209.6
Appling	Heart of Georgia -Altamaha	15,744	11,650	74.0	17,419	12,720	73.0	508.8
Bleckley	Heart of Georgia -Altamaha	10,430	6,040	57.9	11,666	7,211	61.8	217.4
Candler	Heart of Georgia -Altamaha	7,744	3,773	48.7	9,577	5,437	56.8	247.0
Dodge	Heart of Georgia -Altamaha	17,607	10,045	57.1	19,171	12,275	64.0	500.6
Emanuel	Heart of Georgia -Altamaha	20,546	6,428	31.3	21,837	11,356	52.0	686.0
Evans	Heart of Georgia -Altamaha	8,724	5,143	59.0	10,495	7,065	67.3	185.0
Jeff Davis	Heart of Georgia -Altamaha	12,032	7,495	62.3	12,684	8,628	68.0	333.4
Johnson	Heart of Georgia -Altamaha	8,329	5,379	64.6	8,560	5,784	67.6	304.4
Laurens	Heart of Georgia -Altamaha	39,988	19,306	48.3	44,874	24,787	55.2	812.6
Montgomery	Heart of Georgia -Altamaha	7,163	3,434	47.9	8,270	4,529	54.8	245.3
Tattnall	Heart of Georgia -Altamaha	17,722	10,588	59.7	22,305	15,490	69.4	483.7
Telfair	Heart of Georgia -Altamaha	11,000	4,456	40.5	11,794	4,605	39.0	441.2
Toombs	Heart of Georgia -Altamaha	24,072	8,449	35.1	26,067	11,330	43.5	366.7
Treutlen	Heart of Georgia -Altamaha	5,994	3,197	53.3	6,854	4,030	58.8	200.7
Wayne	Heart of Georgia -Altamaha	22,356	12,191	54.5	26,565	16,170	60.9	644.7
Wheeler	Heart of Georgia -Altamaha	4,903	3,150	64.2	6,179	3,309	53.6	297.7
Wilcox	Heart of Georgia -Altamaha	7,008	3,783	54.0	8,577	4,024	46.9	380.4
Long	Coastal Georgia	6,202	4,911	79.2	10,304	8,864	86.0	401.0
Baker	Southwest Georgia	3,615	2,912	80.6	4,074	3,223	79.4	343.2
Calhoun	Southwest Georgia	5,013	1,690	33.7	6,320	1,689	26.7	280.2
Decatur	Southwest Georgia	25,511	13,955	54.7	28,240	15,504	54.9	596.8

Name of County	Regional Development Center	1990 Population (Census)	1990 Unincor-porated Population	1990 Percent Unincor-porated Population	2000 Population (Census)	2000 Unincor-porated Population	2000 Percent Unincor-porated Population	Land Area (Square Miles)
Early	Southwest Georgia	11,854	5,507	46.5	12,354	5,783	46.8	511.3
Grady	Southwest Georgia	20,279	10,639	52.5	23,659	13,789	58.3	458.2
Miller	Southwest Georgia	6,280	4,289	68.3	6,383	4,444	69.6	283.1
Seminole	Southwest Georgia	9,010	5,746	63.8	9,369	6,252	66.7	238.1
Berrien	South Georgia	14,153	7,345	51.9	16,235	9,241	56.9	452.5
Echols	South Georgia	2,334	2,334	100.0	3,754	3,754	100.0	404.2
~~Irwin~~	~~South Georgia~~	~~8,649~~	~~5,467~~	~~63.2~~	~~9,931~~	~~6,626~~	~~66.7~~	~~356.8~~
Lanier	South Georgia	5,531	3,064	55.4	7,241	4,511	62.3	186.8
~~Turner~~	~~South Georgia~~	~~8,703~~	~~3,311~~	~~38.0~~	~~9,504~~	~~4,343~~	~~45.7~~	~~286.1~~
Atkinson	Southeast Georgia	6,213	3,294	53.0	7,609	4,370	57.4	338.1
Bacon	Southeast Georgia	9,566	5,903	61.7	10,103	6,867	68.0	285.0
Brantley	Southeast Georgia	11,077	9,588	86.6	14,629	13,236	90.5	444.4
Charlton	Southeast Georgia	8,496	5,230	61.6	10,282	7,339	71.4	780.8
~~Clinch~~	~~Southeast Georgia~~	~~6,160~~	~~3,217~~	~~52.2~~	~~6,878~~	~~2,803~~	~~40.8~~	~~809.4~~
~~Coffee~~	~~Southeast Georgia~~	~~29,592~~	~~16,626~~	~~56.2~~	~~37,413~~	~~24,018~~	~~64.2~~	~~599.1~~

Sources: Data on counties without zoning ordinances as of 1998 from Growth Strategies Reassessment Task Force (1998). The 1990 population data, including unincorporated population and percent unincorporated, are from the Georgia County Guide, Eleventh Edition, 1992 (Athens, GA: University of Georgia, Cooperative Extension Service). 2000 county total population from U.S. Census Bureau as reported by the Atlanta Journal-Constitution. 2000 county unincorporated population from Georgia Department of Community Affairs (memo to RDC Executive Directors from Rick Brooks, Director of Planning and Environmental Management Division, April 3, 2001). Percentages of unincorporated population in 2000 calculated by Jerry Weitz.

Note: Counties shown as strikeout have adopted zoning ordinances since 1998, per data from Georgia Department of Community Affairs.

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Task 2 Report: Alternative Land Use Management Techniques

June 25, 2001

ALTERNATIVE LAND USE MANAGEMENT TECHNIQUES WITH POTENTIAL APPLICATION IN RURAL GEORGIA

This report identifies, describes, and evaluates new or alternative approaches to land use management being implemented in Georgia and other states that might be used to address land use problems and issues in rural Georgia. The intent of this report (Task 2) is to generate a list and description of alternative land use management techniques and provide a preliminary assessment of whether they should be further studied for inclusion in a model land management system (to be prepared as a subsequent task). Based on this preliminary assessment, the Department of Community Affairs will, with the advice of a legal consultant and a project advisory committee, select those alternatives which will be further researched in Task 3.

Prior to identifying and evaluating alternative land use management techniques, it is important to convey our thoughts on how we approached this task. First, it must be remembered that our target audience is rural cities and counties which have not been willing or able to adopt conventional zoning ordinances. There are many innovative land use management tools that we considered but did not include in this report, because they are much too complex to be implemented by rural local governments in Georgia. Such techniques considered too complex for local governments in rural Georgia include adequate public facilities ordinances, growth boundaries, and transfer of development rights, among others.

Secondly, it is important to note that the scope of this research applies to land use regulations, and hence it excludes discussions of non-regulatory tools such as land trusts, capital improvement programs, fiscal impact analysis, and the like. Third, we have excluded certain variations of zoning, such as planned unit developments and innovative overlay zoning techniques, because these tools are mostly implemented in conjunction with conventional zoning, and here we are limited to the alternatives to conventional zoning. Finally, we have excluded from discussion in this report those land use management approaches and techniques that we have already decided belong in the model land use management code we will develop in task 4 of the Alternatives to Conventional Zoning (ALT Z) project. Such “givens” with regard to the model land use management code include subdivision regulations, sign regulations, and tree protection regulations, among others.

Table 1 identifies the alternative land use management techniques described and assessed in this report and provides recommendations as to whether they should be included in the model land use management system.

Table 1
Summary of Alternative Techniques
and Recommendations

Land Use Management Technique	Applicable to Rural Georgia?	Recommendation
1. Agricultural use notice	Yes	Include in model code.
2. Waiver of right to claim agriculture is a nuisance	Yes	Include in model code.
3. Agricultural and forest buffers	Yes	Include in model code.
4. Rural clustering and conservation subdivisions	Yes	Include model conservation subdivisions ordinance (DCA) in model code
5. Design review and design guidelines	Maybe	Investigate legality and Include in model code.
6. Development agreement	Unlikely	Investigate legality.
7. Development standards and site plan review ordinance	Yes	Include in model code.
8. Public nuisance ordinance	Yes	Include in model code.
9. Performance zoning and performance standards	Maybe with sufficient staff	Include simple performance standards in model code.
10. Specific plans	Remote	Investigate legality.
11. Extraterritorial zoning and subdivision regulation	Yes	Not authorized, consider enabling legislation.
12. Land use guidance system	No	Do not include.
13. Environmental impact assessment	Yes, for large scale development	Investigate legality.
14. Environmental performance standards	Yes	Include in model code.
15. Stand-alone functional land use and environmental ordinances	Yes	Include, as appropriate, in model code.
16. Corridor, interchange, and other partial zoning schemes	Yes	Investigate legality.
17. Use regulations without using zoning districts	Maybe	Investigate legality.
18. Major permit requirement	Yes	Investigate legality.
19. Official map	No	Do not include in model code.
20. Corridor map	Yes	Investigate legality.
21. Land classification	Yes	Consider variations within the context of a land use intensity districting approach.
22. Development allocation system	Remote or unlikely	Do not include in model code.

1. AGRICULTURAL USE NOTICE

Description and purpose. An agricultural use notice is a disclosure instrument that is intended to protect existing, active farming operations from nuisance complaints by adjacent residential neighbors who subsequently locate next to an active farm. This technique is sometimes called a "local right-to-farm ordinance" (Schiffman 1999). A local ordinance can require that a warning of potential odors, dust, chemicals, etc. of farming operations be placed in deeds of lands lying adjacent to active farmlands. This action forewarns prospective land purchasers of the impacts of active farming operations. The agricultural use notice also typically contains an expression of local policy in favor of retaining existing, active farm operations.

Example applications. Schiffman (1999) provides an example application of an agriculture use notice in Butte County, California. The county regulation requires that deeds or contracts of sale conveying property adjacent to or included in an agricultural zone must contain a provision that residents of such property adjacent to an active farming operation "should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations." Furthermore, the Butte County ordinance also requires, as a condition of issuing any building permit, that the owner of land adjoining agricultural property record a statement acknowledging the possible effects of locating adjacent to an active farm operation. When recorded in deeds, the agricultural use notice should appear in the title insurance report as an exception against the land. Real estate agents are also required to disclose this information to prospective purchasers (Schiffman 1999). McHenry County, Illinois, has a similar provision, called an "intensive use affidavit," which is filed to avoid purchasers of nearby property from complaining that they did not know what their farm neighbors were doing (Stokes et al. 1989).

Administrative requirements for implementation. The requirement to provide an agricultural use notice in deeds could be implemented without a building permit system. Enforcement of such a requirement is in a sense, privatized, because it is real estate attorneys and agents that make sure the agricultural use notice is placed in deeds and disclosed as required by the local ordinance. To require the agricultural use notice as a condition of a building permit, a building permit requirement, of course, must be in place. The building permit issue is the enforcement mechanism. The locality implementing the agricultural use notice must be able to identify the active farm operations to which the requirement of an agriculture use notice would apply. Typically, the agricultural use notice is associated with a particular agricultural zoning district. Since zoning is not a "given" in rural Georgia, there needs to be some other mechanism to identify existing agricultural operations. This may be as simple as declaring the entire unincorporated area of a county as an agricultural zone (if it has a predominance of active farming operations). Alternatively, information from the local comprehensive plan might be used (e.g., map of existing land uses, if provided in sufficient detail). Other locations may find the need to develop a map and show specific geographic areas to which the agricultural use notice applies. In the absence of zoning, a map of existing, active agricultural operations is recommended to implement this tool.

Political considerations. In a rural farm economy, an agricultural use notice to protect and maintain active farm operations should be politically acceptable. Only when an area becomes highly suburbanized, with the balance of voter strength swayed from farmers to suburban residents, would the agricultural use notice become politically controversial.

Effectiveness. By attempting to protect active farming operations, the agricultural use notice may have the effect of discouraging scattered exurban and rural residential among areas containing active farms. However, the prospects that an agricultural use notice would significantly deter exurban development and rural scatter is highly unlikely—it is too blunt of an instrument to accomplish that objective. More importantly, the agricultural use notice may avoid disinvestment in active agricultural operations (also called the impermanence syndrome) because of complaints by adjacent property owners, thereby extending the life of the farming economy and agricultural character of a rural area. A simple warning or notice does not preclude a landowner adjacent to active agriculture from bringing a nuisance claim based on dust, odor, and so forth.

As noted by Nelson and Duncan (1995), right-to-farm laws and local applications of such state laws "do not prevent farmers from converting to urban uses." Therefore, the agricultural use notice will not necessarily stop the loss of farmland in a given county.

Legality. Schiffman (1999) notes that the legal effectiveness of this technique is uncertain. To some extent it might be complemented by state right-to-farm laws, which exist in all fifty states (Schiffman 1999) or most of the fifty states (Daniels 1999). As noted by Schiffman (1999), the agricultural use notice "is an attempt to resurrect the concept of first in time, first in right," which used to but no longer controls nuisance law suits.

Application in rural Georgia. Very good. This tool can be adopted independently of conventional zoning and other land use techniques.

2. WAIVER OF RIGHT TO CLAIM AGRICULTURE IS A NUISANCE

Description and purpose. This alternative requires an agricultural use notice, as described above, but goes one step further by requiring that occupants or developers of adjacent lands waive their rights to bring a nuisance claim against a pre-existing active farm operation.

Example application. Forsyth County, Georgia's code goes beyond a simple public notice requirement to prospective landowners and developers adjacent to active farmland. Forsyth County's unified development code establishes an A2 zoning district which includes farming activities which may result in odors, noise, dust, and other effects and which generally are not compatible with adjacent single-family development. Forsyth County's A-2 district requires anyone who is building or developing adjacent to an active farm use to waive their right to file nuisance claims, as indicated in the provision below.

Example code language. "Future developers, builders, or property owners with land adjacent in non-A2 zoning districts shall be provided with a "Notice of A2 Adjacency" at the time of an application for a zoning change of property adjacent to A2, or at the time of an application for a building or occupancy permit for property adjacent to an A2 district. Prior to action on either the zoning change or the issuance of a building or occupancy permit on property abutting land in an A2 zoning district, the applicant therefore shall be required to sign a waiver on a form prepared by the Director which will indicate that the applicant understands that a use is ongoing adjacent to his existing or proposed use which may produce odors, noise, dust, and other effects which may not be

compatible with the applicant's development. Nevertheless, understanding the effects of adjacent A2 uses, the applicant agrees by executing the form to waive any objection to those effects and understands that his zoning and/or his permits are issued and processed in reliance on his agreement not to bring any action asserting that the adjacent A2 use constitutes a nuisance against local governments and adjacent landowners whose property is zoned A2. Any such notice or acknowledgment provided to or executed by a landowner adjoining land zoned A2 shall be a public record." (Forsyth County Unified Development Code, § 15-2.4).

Administrative requirements for implementation. The example application implements this tool within the context of a zoning ordinance. However, as with the simpler agricultural use notice, this tool could be implemented with a building permit system and a map of agricultural lands to which this requirement would apply (see discussion of agricultural use notice, above).

Political considerations. In a rural farm economy, a waiver of rights to bring a nuisance suit against an active farm operation should be politically acceptable. In areas that are highly suburbanized, where suburban residents far outnumber farmers, the waiver requirement might become politically controversial. If made a condition of building permit issuance, applicants may be somewhat reluctant, and perhaps might even complain of such a requirement, but they are likely to agree because their failure to agree to the limitation would result in the denial of their building permit.

Effectiveness. Although it is a sharper instrument than the agricultural use notice, even a waiver of nuisance complaints may offer only limited protection to existing farm operations. If the farm operator changes agricultural practices, he may lose the "pre-existing status" and no longer be protected by a right-to-farm in the case of a nuisance complaint. For instance, a right-to-farm law may not protect a farm operator if he changes from a dairy farm to a hog farm (Daniels 1999). Right-to-farm laws and local applications of them might provide some defense against "nuisances," but they are unlikely to protect the farm operator in cases where agricultural operations "trespass" (with chemical drift, airborne particulates, and odors) onto adjacent properties (Nelson and Duncan 1995).

Legality. It is not known whether the waiver of rights is effective in overcoming nuisance suits. Given that Forsyth County, Georgia, has adopted this requirement, that implies that it has passed legal scrutiny in that county. Noted land use attorney Robert Freilich observes with regard to right-to-farm laws that there was an Iowa Supreme Court decision which found that the "state cannot regulate property so as to insulate users from private nuisance claims without providing for just compensation" (Freilich 1999).

Application in rural Georgia. Good. This tool can be adopted independently of conventional zoning and other land use techniques, if local governments have a building permit requirement and can identify existing agricultural operations to which the requirement would apply.

3. AGRICULTURAL AND FOREST BUFFERS

Description and purpose. This technique requires urban or suburban uses to buffer themselves from farmland or forestland. Alternatively, it could be simply a setback

rather than a buffer. It is intended to separate agricultural (and forest) operations from conflicts with other land uses, thereby protecting them.

Example applications. Schiffman (1999) characterizes experience with agricultural buffers as "limited but increasing." He indicates that the California Coastal Commission requires a 200-foot buffer between developments and commercial agricultural lands. He also indicates that the State of Maine prohibits construction of homes, commercial businesses, and wells within 150 feet of any farm that registers with a town government. Nelson and Duncan (1995) indicate that agriculture/forest buffers can range from a few feet to three miles.

Administrative requirements for implementation. Implementing this tool generally requires at least a building permit, if not a development permit. It is possible that a local government could pass a buffer requirement and then hope that it would be implemented. However, to effectively enforce the requirement, site plans and inspections are needed. Furthermore, the simple example leaves open the question of what constitutes an effective buffer, implying that an ordinance establishing buffers would need additional specificity. There also may be cases where "variances" are needed, or "appeals" from administrative determinations might be required. If different buffer widths or setbacks are established depending on the type or characteristics of use, such an effort requires more extensive time to prepare and administer. Hence, what appears to be a simple requirement of requiring a buffer (or setback) requires many of the supporting provisions of a conventional zoning ordinance (definitions, enforcement provisions, variance and appeal provisions, detailed standards, and so forth).

Political considerations. Reasonable setbacks and/or buffers to protect farm and forest lands should not be politically controversial. However, land that is placed in permanent buffers is not usable by the property owners and this may become a political issue in some communities. As with the agricultural use notice and the waiver of right to nuisance suits, as described above, this tool should be acceptable in areas dominated by a rural farm/forest economy. When more extensive suburban development occurs, the buffer requirement may become more of a political issue. A buffer requirement should be much more politically acceptable than adopting a conventional zoning ordinance.

Effectiveness. Buffers and setbacks have long been used as primary mechanisms for ensuring compatibility between various land uses. The larger the buffer, the greater protection there will be provided for farmlands and forestlands (Nelson and Duncan 1995). In the case of odors, such as those from poultry houses, distances must be extensive to be effective.

Legality. Agricultural buffers are accepted within the context of a zoning ordinance. In other cases, agricultural buffers may be legitimately imposed as conditions of development permit approval. However, it is less clear whether an individual, stand-alone ordinance requiring agricultural buffers, outside the context of a conventional zoning ordinance, would be legal.

Application in rural Georgia. Good. A separate ordinance could be established by a local government that requires buffers between residential developments and farmland and forestland. As noted above, such an ordinance needs to be accompanied by

provisions that resemble conventional zoning ordinance requirements. It requires limited advance planning, but the administrative requirements are significant.

4. RURAL CLUSTERING AND CONSERVATION SUBDIVISIONS

Description and purpose. Cluster development techniques concentrate or group land uses on a portion of a site rather than spreading them evenly throughout the parcel. Clustering results in a transfer of density within a given parcel, such that the gross density or intensity of the parcel is the same, but the net density or intensity of the developed portion of the parcel is greater than would result if the development was evenly distributed on the parcel. The primary purpose of clustering is to protect sensitive environmental areas (e.g., steep slopes, wetlands, etc.) or resource lands (e.g., woodlands, prime agricultural soils, etc.). Other purposes of clustering include the reduction of infrastructure costs (Schiffman 1999).

Example applications. The use of clustering is widespread, and numerous example applications exist. Randall Arendt (1994; 1996) provides numerous examples of conservation subdivisions and rural clustering techniques, respectively. Pivo, Small and Wolfe (1990) also provide illustrations of rural clustering concepts.

Administrative requirements for implementation. A more detailed site plan review process is required to implement rural clustering and conservation subdivision approaches.

Political considerations. Developers are confronted with higher up-front costs to study the development site, plan the development, and provide preliminary engineering and design information. On the other hand, the additional up-front costs are probably small in comparison to the reduced cost of infrastructure gained from clustering versus conventional development. Because clustering results in higher net densities or intensities even if the gross density or intensity is the same on a given site, neighborhood groups and adjacent property owners may object to the resulting net density increase. The resulting product of a rural cluster development is not always what the “market” has in mind—many people who decide to live in rural areas want their own large lot and do not wish to purchase lots and reside in a clustered pattern, even if it results in substantial common open space or other amenities.

Effectiveness. Rural clustering is much more effective in protecting environmentally sensitive areas and resource lands than conventional zoning. Whereas a traditional subdivision layout would include sensitive or resource lands within individual lots, to meet minimum lot sizes, the cluster subdivision approach allows the protection of sensitive or resource lands in common areas. Care must be taken to ensure that the clustering approach results in true benefits with regard to saving land—not just the flood plains and steep slopes that are considered unbuildable by the developer in the first place.

Legality. Because most cluster ordinances are voluntary, there should be no legal question about providing for an option to cluster development on a given site. Mandatory clustering has been used in several rural towns in Maine and Massachusetts (Schiffman 1999).

Applicability in rural Georgia. The rural clustering technique is certainly applicable to rural Georgia. At issue for the ALT Z project is whether additional research on this technique is needed, or whether we can simply incorporate (or refer to) the model conservation subdivisions ordinance being prepared for the DCA Smart Growth Toolkit.

5. DESIGN REVIEW AND DESIGN GUIDELINES

Description and purpose. Design review is a process of reviewing the architecture, aesthetics, and site compatibility of new development within a specifically designated area. Its primary purposes are to achieve architectural harmony and aesthetic compatibility between new and existing development. In some states, especially in Illinois, design review is accomplished by an appearance commission and performance standards are promulgated via an appearance code (Porter 1997).

Example applications. None in rural Georgia. Suburban cities such as Roswell and Alpharetta have implemented design review ordinances. Prior to building or developing, an applicant is required to file design plans that are reviewed by staff and then submitted to a design review board for action. The board usually reviews the application for consistency and compatibility with adopted design guidelines.

A well-known example of an appearance code from Libertyville, Illinois, is published in Mantell, Harper and Propst (1990). This code provides definitions, criteria for appearance, additional criteria for the village's historic area, and provisions for maintenance. The code as it appears in Mantell et al (1990) does not include provisions establishing an appearance commission or provisions regarding administration and enforcement.

Administrative requirements for implementation. Design review requires a fairly elaborate ordinance, and detailed design guidelines are highly recommended. Both of these requirements necessitate professional expertise not often available locally (and perhaps not regionally in Georgia's more rural areas). A building permit system and site plan review are prerequisites. In addition, some professional expertise is needed on the design review board and on the part of the staff administering the ordinance. Design review requires more extensive applications for development—for instance, a typical design review application contains architectural elevations and often color and material samples. It is unlikely that rural local governments will have the necessary expertise on staff, and they may not have a sufficient pool of citizens with the requisite professional experience to serve on a review board.

Political considerations. Design review, which involves some subjective judgments as to the aesthetics of a given development, is not likely to be acceptable in rural communities, unless the district applies to an area that has extensive community support for protection. There are many communities with conventional zoning ordinances that have not implemented design review requirements, suggesting that it is a "step beyond" conventional zoning. Local officials that might be supportive of conventional zoning might not support the regulation of design and aesthetics, except in unusual circumstances. However, the opposite might well be true. Vague guidelines and subjective judgments of board members are two political limitations to this approach (Schiffman 1999).

Effectiveness. If established as a mandatory process, and supported by design guidelines, design review can be effective in ensuring new development conforms to principles of good site planning and architectural compatibility. The legal status of design guidelines is often unclear locally—are they regulations or just guidelines? When guidelines are not mandatory, they may be less consistently enforced and in such cases would be less effective.

Legality. Because community appearance and aesthetics are legitimate bases for local land use regulation (see U.S. Supreme Court cases Berman v Parker (1954) and Metromedia Inc. v City of San Diego (453 US 490, 1981), design review ordinances are generally accepted. In Georgia, there is no enabling legislation that specifically provides for design review (as separate and distinct from the state historic preservation act of 1980). However, design review within the context of a zoning ordinance is exercised in the cities of Roswell and Alpharetta and other places. It is less clear if a local government in Georgia can legally establish a design review district and regulate the architecture and site characteristics of development within such a district, outside the context of a zoning ordinance.

Application in rural Georgia. Possible but unlikely outside the context of other land use regulations such as conventional zoning. Generally, local governments that are unwilling to adopt land use regulations will be even less willing to suggest or dictate architecture and aesthetic aspects of development. Professional expertise is generally lacking in rural areas, if staffs exist at all. However, design review within a specific area could be an appropriate tool to protect a site or area with special character that otherwise has no land use controls.

On the other hand, local governments may not have specific objections to development, so long as it is architecturally and aesthetically compatible with community design objectives. Because there may be some rural local governments that want to guide the aesthetic character of the community but not go so far as adopt a conventional zoning ordinance, this tool may have some applicability in rural Georgia.

6. DEVELOPMENT AGREEMENT

Description and purpose. This tool is a negotiated agreement between a local government and a developer. It usually involves large-scale development that will be phased and constructed over a long period of time. A development agreement is sought by a developer to bring certainty to the local regulations that will govern the development over time. In exchange for agreeing to "lock in" the development regulations for a given development over time, the local government may receive agreement from the developer to install infrastructure or take other actions (Schiffman 1999).

Example application. The state of California's laws specifically authorize local governments to enter into development agreements, as a legislative act approved by ordinance. In Hawaii, development agreements are considered administrative acts (Schiffman 1999). Development agreements indicate the uses that will be permitted, the bulk, intensity and dimensional requirements (height, setbacks, etc.), the time period of the agreement, and provisions for review and termination of the agreement (Schiffman 1999). At least nine states have enacted legislation that enables development agreements between developers and local governments: Arizona, California, Florida,

Hawaii, Louisiana, Nevada, New Jersey, and (to a limited extent) Colorado and Minnesota (Taub 1990).

Administrative requirements for implementation. Development agreements are considered a flexible alternative to conventional land use regulations. The administrative requirements are even more burdensome than those required to administer a conventional zoning ordinance. Additionally, because a development agreement is, by definition, a negotiated instrument, it requires extensive time and some professional expertise in negotiating techniques. Additional paperwork is inherent in a development agreement.

Political considerations. Local residents may not be supportive of the "dealing" and negotiating nature of development agreements, and they may view such a tool as an unknown, risky alternative to conventional zoning regulations. On the other hand, a development agreement is flexible and thereby provides a mechanism for addressing politically controversial issues.

Effectiveness. Development agreements can provide viable alternatives to conventional land use regulatory systems. Because they are negotiated, they may be more effective at addressing infrastructure and neighborhood concerns.

Legality. No enabling authority to adopt development agreements exists in Georgia. A development agreement, whether within or outside the context of conventional zoning, would likely be considered by Georgia's courts to be "contract zoning" which will be declared invalid. See Cross et al. v Hall County (238 Ga 709) (1977). However, as an alternative view, it is not uncommon for local governments to negotiate conditions of zoning, accomplishing much the same thing as a development agreement (though not identical in substance). Conditional zoning is legal in Georgia. Any requirements for developer installation of off-site system improvements (i.e., infrastructure) may run afoul of the Development Impact Fee Act of 1990, although the development agreement as implemented in other states allows localities to receive public improvements and facilities from the developer "in excess of what the law would allow as an incidence of development approval" (Schiffman 1999).

Application in rural Georgia. Because development agreements are typically implemented as alternatives to existing local development regulations, they are unlikely to be appropriate in a "stand alone" context in rural Georgia. However, this tool might be further investigated with regard to its prospects. For instance, could a local government, without conventional zoning, establish a development agreement ordinance that applies to a certain threshold of development (e.g. a subdivision with 100 or more lots, or a commercial structure with 100,000 or more gross square feet of building)?

7. DEVELOPMENT STANDARDS AND SITE PLAN REVIEW ORDINANCE

Description and purpose. Independent of conventional zoning, a local government may adopt standards for various aspects of land development, including requirements for stormwater management and standards for streets and access points. The local ordinance would include standards for land development and require site plans of land developments be prepared by the applicant and reviewed and approved by the staff or agency/commission of local government.

Example applications. Separate ordinances that establish detailed development standards are not frequently found. Often, whatever standards that exist for land development are adopted via conventional zoning ordinances and land subdivision regulations. A problem with the conventional approach is that zoning and subdivision regulations, by themselves, often do not apply to development proposals that do not require rezoning or subdivision. For instance, a development on an already platted lot with appropriate zoning in place may not be required to conform to detailed site development standards for the installation of infrastructure. More sophisticated local government staffs in fast-growing suburban areas and urban areas have adopted development standards ordinances and construction specifications (in addition to zoning and subdivision control ordinances) that apply to all developments, even if they are already zoned and subdivided.

Administrative requirements for implementation. Extensive. Professional engineering and planning expertise is required to prepare, adopt, and implement land development standards and site plan review ordinances. Cities and counties that do not have a planner, building inspector, and city engineer will not have sufficient staff to administer a development standards and site plan review ordinance. Even if the approval process is entirely administrative, the time involved can be extensive as an interdepartmental review team is often created. Furthermore, there usually needs to be an appeal provision and variance procedures where the action of an administrative official can be reviewed and overturned, or the provisions modified, by a Board of Appeals or the governing body. Such requirements add to the complexity of this tool.

Political considerations. Rural local governments that do not wish to adopt conventional zoning may find this to be a more politically acceptable approach. A development standards and site plan review ordinance does not place limitations on what uses can go where, it merely establishes the “ground rules” for developments, regardless of type of land use and location. Smaller developments can be exempted from the review requirements of the ordinance so as not to unduly burden small developments. Whether to require or allow public input to the site planning process is a political (as well as legal) question. Generally, the site plan review process is considered administrative with no public input or hearing procedure. Because developers know the rules and can gain approval in a reasonable amount of time if they comply with the rules, they should not be opposed to such requirements if they are reasonable. When development standards are excessive and unduly costly without an apparent public benefit, opposition is more frequent.

Effectiveness. Interviews with administrators of land use codes in Wilkes County and Burke County (which resemble this tool) reveal that long-term community goals may be sacrificed for the benefits of an easier day-to-day enforcement of the code (Ndubisi

1992). Because such a system does not regulate the location of specific land uses, it is ineffective at meeting the objectives of conventional zoning.

Legality. Although there is no specific enabling legislation to adopt development standards and a site plan review ordinance, it seems that the adoption of construction specifications and development standards, along with requirements to submit a site plan for approval, is legitimately within the scope of local government police powers.

Application in rural Georgia. Reasonably good. Rural cities and counties that are unable or unwilling to adopt a conventional zoning ordinance could establish basic development standards and enforce them through a site plan review ordinance. However, rural local governments generally do not have the staff time and expertise needed to implement development standards and site plan review ordinances. Regional and interlocal approaches to sharing staff and adopting consistent development standards would go a long way to making this approach more feasible for implementation in Georgia's rural areas.

8. PUBLIC NUISANCE ORDINANCE

Description and purpose. This tool is intended to protect citizens of a jurisdiction against offensive nuisances, such as animals, abandoned vehicles, poor property maintenance, and so forth. Common law generally allows a private individual to bring a nuisance claim to court. The difference with a nuisance ordinance is that certain conditions would be declared a "public" nuisance, and the local government, rather than a private individual, would be responsible for enforcing the ordinance and seeing that the nuisance is abated.

Example application. The Town of Erwin, North Carolina, adopted a nuisance abatement program and ordinance in 1986. The town's program and ordinance have been distributed by the International City/County Management Association as a model for other local governments to consider.

Administrative requirements for implementation. A public nuisance ordinance could be administered by a variety of personnel in rural local governments: a town clerk, a single code enforcement officer, an environmental health officer, or even a public safety (police) officer. A public nuisance ordinance does not require specific expertise. However, it is more "enforcement oriented" than a conventional zoning ordinance and thus requires civil court proceedings that involve considerable time. An appropriate level of enforcement of a public nuisance ordinance would necessitate additional staffing in most rural local governments. Few existing staffs, such as the environmental health officer or police, have unencumbered resources and additional time to enforce a public nuisance ordinance.

Political considerations. If consistently enforced, there should be no major political constraints to the implementation of a public nuisance ordinance in rural areas. What constitutes a "public nuisance" is subject to local determination. The ordinance should be prepared and adopted only after public participation and an identification of specific local needs and desires.

Effectiveness. Effectiveness is limited to those activities that are defined as public nuisances, and effectiveness is only as good as the enforcement of the nuisance ordinance.

Legality. The regulation of nuisances is considered to be within the scope of local government police powers. City charters often specifically provide for such authority, and nuisance abatement is reasonably implied as a home rule power.

Applicability in rural Georgia. Very good. Nuisance ordinances address some of the more pressing land use issues that conventional zoning ordinances also regulate. For instance, provisions for junked vehicles could be declared a nuisance and regulated by a nuisance ordinance, as opposed to regulating such uses through a conventional zoning ordinance. A variety of local government staff can be assigned responsibilities for implementation.

9. PERFORMANCE ZONING AND PERFORMANCE STANDARDS

Description and purpose. Performance zoning or "standards" is the most often-cited alternative to conventional zoning. Unlike conventional zoning, performance-based approaches prescribe a set of standards against which a particular development proposal is measured (Ndubisi 1992). Ironically, more often than not performance zoning relies on a "zoning district and map" approach, although it typically employs much fewer "zones" than does a conventional zoning approach. At the core of the concept of performance zoning are various standards, such as density limitations, an open space ratio, and an impervious surface ratio. The basis behind a performance standards approach is that uses should not be prohibited outright, if they can meet criteria designed to mitigate the effects of such uses. Land uses are separated only to the degree that they create negative impacts on neighbors (Schiffman 1999).

Example applications. There are numerous examples nationally of the implementation of performance zoning and performance standards. Small cities such as Bay City, Oregon, and Bath Township, Michigan, have implemented performance zoning. In Bay City, there are three intensity zones: high (commercial), moderate (residential), and low (rural) (Schiffman 1999). In Georgia, the Georgia Mountains Regional Development Center (GMRDC) prepared a performance zoning ordinance for Demorest, Georgia, based on the Bay City model. GMRDC also prepared a more flexible, limited district, performance-based zoning ordinance for Habersham County, Georgia. Regionally, the Georgia Mountains Planning and Development Commission prepared "land management performance standards" in 1979. Auburn, Alabama, prepared and adopted a performance zoning ordinance in 1983 and 1984 (Juster 1997). Research on the topic indicates that most local governments that implement performance zoning actually add performance standards to conventional zoning ordinances rather than substituting performance-based approaches for conventional zoning schemes (Porter 1998).

Administrative requirements for implementation. Research on this question is mixed. The general consensus is that performance-based approaches are more complex and time-consuming to administer than conventional zoning ordinances, because they involve a case-by-case consideration of every development proposal. However, Ndubisi (1992) notes that Bath Township, Michigan, (population 6,000) has implemented a simple performance standards approach in conjunction with conventional zoning with only two planners, by keeping the standards simple. The complexity of

administration depends, of course, on the complexity of the performance standards. Hence, various degrees of skill may be necessary to administer performance standards (Schiffman 1999). A performance standards approach that does not utilize zones could be easier to administer, if the standards are kept relatively simple. A performance zoning approach, one that involves even a few districts, may be almost as time-consuming as a conventional zoning approach, because there are still district map amendments to process.

Political considerations. Due to the added flexibility in the location of land uses, a performance standards approach may be more acceptable to local elected officials than conventional zoning ordinances. This is especially the case if the "districts and map" approach is not used. Research on performance zoning shows that the citizen populace is less comfortable with performance zoning approaches due to the uncertainty involved and an inability to grasp how the provisions will protect residential areas. Developers might react positively or negatively to performance approaches—on the one hand they have more flexibility, but on the other hand, they often have more rigorous and time consuming review schedules to meet. If subjective judgment is involved in the administration of performance standards, that may give rise to complaints of unfairness.

Effectiveness. Due to uncertainty involved in what land uses can be established on various sites, performance standards approaches are considered to be less effective than conventional zoning. Effectiveness is increased with a "district and map" scheme, however simple that may be.

Legality. Because the Georgia General Assembly via the zoning procedures law has defined "zoning" as containing zoning districts and a map, the legal question exists as to whether a local ordinance adopting performance standards for development and which does not regulate according to zoning districts and a map would be authorized under the constitutional permission for city and county zoning. Although no specific enabling legislation currently exists to authorize local governments to adopt performance zoning and performance standards, and even if performance standards are not "zoning" under the interpretation of state statute (and therefore not constitutionally authorized), this tool is considered to be within the scope of local government police powers.

Applicability in rural Georgia. A performance zoning ordinance, or just a performance standards approach, should be more acceptable in rural communities than conventional zoning. Most local governments lack the staff needed to administer a performance zoning ordinance or performance standards ordinance.

10. SPECIFIC PLANS

Description and purpose. Specific plans are like a detailed neighborhood or subarea plan, but with one major difference. Specific plans, upon their adoption, are enforceable and implemented as land use regulations. A specific plan, which applies to a specific geographic area, is typically adopted as a part of the local government's comprehensive plan, but it also contains specific implementation measures, including not just land use regulations and design guidelines, but also capital improvement programs (Schiffman 1999). Developments that are consistent with an adopted specific plan are not subject to any additional discretionary reviews (i.e., rezoning, platting, etc.).

Example applications. Specific plans are common in California, where more than 160 cities and counties have used this tool. Oregon has also promoted this tool as an innovative growth management device.

Administrative requirements for implementation. A specific plan requires an extensive amount of time to prepare, and professional planning expertise is required. Property owners within the geographic area of the specific plan are engaged as stakeholders. Specific plans also may require the assistance of design professionals because they often provide guidelines for architecture and site planning. Furthermore, because specific plans often involve facility planning and a capital improvement program that accompany the plan, engineering expertise is often required. Once a specific plan is prepared, and an ordinance is put into place to enforce the plan, all that is required for development approval is a showing of consistency (through typical plan submittals). What is less clear is how local governments would treat development proposals that are inconsistent with the specific plan.

Political considerations. Because the specific plan process engages stakeholders, their "buy in" can generally be assumed. Because developers do not have to file rezoning applications and seek other discretionary approvals if their project is consistent with the specific plan, they are likely to favor such an approach. Interest in the outcomes of the specific plan and the resulting development process is likely to be limited to the geographic area of the specific plan itself.

Effectiveness. Due to involvement of stakeholders, and the detail involved in preparing specific plans, they are considered to be very effective at promoting the characteristics of development that are desired by the community.

Legality. Specific plans as described above and implemented in California are not authorized in Georgia, though they are not specifically prohibited either. Because local comprehensive plans in Georgia do not have substantial legal status, it is questionable whether a given portion of a comprehensive plan could serve as a regulatory device, even if a separate implementing ordinance was adopted by the local government to that effect. Also, the question as to whether a local government can adopt land use regulations on a less-than-comprehensive basis (i.e., covering part but not all of its land area) is a key to the potential implementation of this tool.

Applicability in rural Georgia. Possibilities exist but they appear remote. A variation of the California approach may be appropriate in rural Georgia. A local government might have a specific geographic area within which it wants to regulate development and provide detailed guidance. In that event, a specific plan with an implementing ordinance might be appropriate. However, specific plans are in almost all instances implemented as an addition (and alternative) to conventional zoning regulations. Therefore, it is unlikely to be used as a stand alone land use management tool.

11. EXTRATERRITORIAL ZONING AND SUBDIVISION REGULATION

Description and purpose. This tool permits cities to exercise zoning and subdivision regulatory authority within an unincorporated area adjacent to the municipal boundaries. The purpose is to allow the city, when the county does not have appropriate land use regulations in place, to regulate development that spills over into the urban fringe.

Example applications. North Carolina statutes provide that "any city may exercise these [zoning and subdivision control] powers within a defined area extending not more than one mile beyond its limits. With the approval of the board or boards of county commissioners with jurisdiction over the area, a city of 10,000 or more population but less than 25,000 may exercise these powers over an area extending not more than two miles beyond its limits and a city of 25,000 or more population may exercise these powers over an area extending not more than three miles beyond its limits" (North Carolina General Statutes § 160A-360, Territorial Jurisdiction).

Administrative requirements for implementation. For local governments that already exercise conventional zoning, extending the geographic area to which its land use regulations apply would add only marginally or incrementally to existing administrative burdens. The local government exercising extraterritorial jurisdiction would need, from a practical if not legal standpoint, to have the extraterritorial area included within its comprehensive plan (land use, natural constraints, public facilities, etc.).

Political considerations. Counties would likely oppose an effort to enable extraterritorial zoning in Georgia. Similarly, any enabling statute that allowed counties with zoning ordinances to exercise those powers within cities would likely receive opposition from cities. However, it must be underscored that the authority would exist only in the absence of the exercise of that power by the subject local government. In other words, a county that does not wish a city to exercise extraterritorial jurisdiction can adopt regulations themselves. Therefore, extraterritorial jurisdiction should not be viewed as a taking away of authority from a local government, but rather, a substitute in the event the local government fails to adopt regulations. Still, the local government may resent being forced into such a situation of adopting land use regulations just to preempt another local government from exercising extraterritorial jurisdiction.

Effectiveness. Unknown without further research.

Legality. A previous legal analysis of innovative development controls and their applicability in Georgia found that the state's planning enabling legislation authorized extraterritorial zoning (Public Research and Management, Inc. 1975). The 1957 act provides that unincorporated areas adjacent to municipalities may be added to and included under the jurisdiction of a municipal planning commission for the preparation and administration of zoning ordinances and land subdivision regulations and official maps if the governing bodies of the respective municipality and county mutually agree upon the boundaries of such area, procedures for joint action thereon, the regulations applying to the area and equitable representation on the municipal planning commission and board of zoning appeals. Formal agreement by the governing bodies involved is required. However, the 1957 enabling legislation no longer exists in Georgia. State planning enabling legislation would be needed to authorize cities to exercise extraterritorial powers.

Applicability in rural Georgia. Without state enabling legislation, this tool could not be used. However, it appears to have much potential to address land use problems outside the jurisdiction of cities. It could theoretically work in reverse as well, where a small city that does not exercise zoning can have the county's regulation (if adopted) apply inside city limits (e.g., the City of Homer in Banks County). Political constraints loom large, although the benefits of extraterritorial zoning may outweigh parochial concerns.

12. LAND USE GUIDANCE SYSTEM

Description and purpose. This term is synonymous with the approach used in Hardin County, Kentucky. It connotes a land use regulatory program that does not involve conventional zoning at all. Rather, a land use guidance system combines a rating system, a compatibility assessment, and a plan assessment.

Example applications. In addition to Hardin County, Kentucky, Ndubisi (1992) notes that Bedford County, Virginia has adopted a similar land use guidance system; he includes a summary of Bedford County's land use guidance system in an appendix. Another example of a point system is Breckenridge, Colorado. Ndubisi (1992) notes that Oconee County considered a proposal for a land use guidance system in the early 1990s, and that "less sophisticated variations" called "land development codes" have been adopted in Burke and Wilkes Counties in Georgia. Ndubisi notes that the latter are essentially a combination of subdivision regulations, performance standards, mobile home regulations, flood hazard protection, erosion and sedimentation control, and access control. In this sense, Ndubisi is grouping within the term "land use guidance system" certain land development codes that do not resemble Hardin County's approach but which "demonstrate an uncomplicated method for regulating land development in a small rural county that has maintained a steady population over the past ten years."

Administrative requirements for implementation. Exner and Sawchuk (1996) have provided one of the best available assessments of the administrative complexities of performance-based systems including Hardin County's land use guidance system. The excerpt below provides their assessment of the administrative requirements of performance-based models of land use regulation.

"In the feasibility assessment, town administrators and planners were less enthusiastic about the performance-based model than were other respondents. Their concerns seemed to be with a number of factors. One was the feeling by town administrators that a performance-based system could not be implemented or operated within existing town budgets. They also felt that this approach would result in higher legal and professional costs. Town administrators were worried about more work that would be generated by the performance model. This would be the result of having to provide more education, more site inspections and greater public involvement. Finally, town administrators and planners were concerned about the greater risk and uncertainty associated with the performance-based approach. This would include such worries as measurement and enforcement of compliance, resolving conflicts, and avoiding and defending themselves from legal challenges" (Exner and Sawchuk 1996).

Ndubisi (1992) finds that performance standards are not as time consuming to administer as conventional zoning, but that the review process takes time and expertise that requires a "break in" period. On the other hand, the more simple approach used in

Wilkes County, which combines subdivision regulations with performance requirements, has been effectively administered by a building inspector (Ndubisi 1992).

Political considerations. Because land development guidance systems and land development codes are more flexible and simple, they are reportedly easy to communicate to developers and property owners. However, because property owners cannot be sure what gets built next to them, that uncertainty may lead to political opposition (Ndubisi 1992).

Effectiveness. Interviews with code administrators in Wilkes County and Burke County reveal that long-term community goals may be sacrificed for the benefits of an easier day-to-day enforcement of the code (Ndubisi 1992). Dekalb County reportedly investigated a point system approach but discarded it because "they found that accumulation of points in minor areas might offset irreversible damage in some other area and permit developments which would not be in the long-range interests of the community" (Georgia Mountains Planning and Development Commission 1979).

Legality. The Hardin County, Kentucky, system no longer exists, as a major revamping of the process was undertaken in 1993-1994 and adopted in 1995 because of legal challenges which found the system lacking. A court also found that because the "compatibility meeting" formed a mandatory part of the approved permit, the municipality could not require a developer to submit to the will of his neighbors.

Applicability in rural Georgia. The land use guidance system employed by Hardin County, Kentucky, is not considered appropriate for application in rural Georgia, due to legal limitations, administrative complexities, and a potential lack of political acceptance. However, a much simplified point system may have some merit in rural Georgia and should therefore be included in the model code.

13. ENVIRONMENTAL IMPACT ASSESSMENT

Description and purpose. This tool is used to evaluate proposed land uses in specific locations. It usually focuses on physical aspects of development and their impacts on the environment, but impact assessments can also consider community and social impacts. Environmental impact assessment provides a basis for making informed decisions on likely beneficial or harmful impacts of development proposals (Ndubisi 1992).

Example applications. Cazenovia, New York, requires local environmental impact assessments for certain types of development, including measures for avoiding, reducing, or mitigating adverse environmental consequences (Ndubisi 1992). Certain states, like California and Washington, have state environmental policy acts that require local governments to implement environmental impact assessments prior to any significant development proposals.

Administrative requirements for implementation. Impact assessment requirements usually place the burden on the developer to submit information about environmental impacts. Hence, the initial burden is on the developer. However, implementing an environmental impact assessment ordinance would necessitate staff with professional qualifications to review developers' assessments, make determinations of sufficiency, and suggest and approve environmental mitigation measures. Rural local governments

do not have qualified staffs to implement this tool, so it would require some other arrangement such as a multi-jurisdictional shared staff.

Political considerations. Local governments that cannot accept conventional zoning as a tool may be more accepting of environmental analysis and mitigation via an environmental impact assessment ordinance. As long as small development projects are exempted from the impact assessment requirements, the general public and developers may be willing to accept the additional costs and time involved in implementing such an ordinance.

Effectiveness. Because an environmental impact assessment ordinance focuses review at the stage of a proposed development application, it is likely to result in a more complete, professional assessment of likely environmental impacts than would occur with a conventional zoning system.

Legality. Ndubisi (1992) finds that, although very few communities in Georgia use local impact assessment as a tool for guiding community growth, there may be some legislative precedent in the passage of the Georgia Environmental Policy Act (1991). He argues that this state law provides a foundation to build upon in formally employing environmental impact assessments as a growth management tool. A comprehensive plan prepared pursuant to the vital areas purpose statements in state law may be sufficient defense for local enactment of environmental impact assessment ordinances.

Applicability in rural Georgia. Good, especially for larger scale development proposals, if the staffing obstacle can be overcome through a multi-jurisdictional staff sharing arrangement.

14. ENVIRONMENTAL PERFORMANCE STANDARDS

Description and purpose. Environmental performance standards are designed to ensure that sensitive ecological processes continue to operate, no mater what type of use occupies the land. They focus on how the land functions rather than on how the land is used. They utilize the natural characteristics of the land as a prime determinant of land use and are often referred to as using a "carrying capacity" approach (Georgia Mountains Planning and Development Commission 1979).

Example applications. Environmental performance measures are difficult to write, because they require rather precise understanding of how the land functions. As a result, there are few example applications. Schiffman (1999) provides example applications of hillside/slope zoning and stream/creek zoning. Hillside/slope zoning can address, through performance standards, the protection of views, allowable densities, runoff control measures, control of cuts and grading, and other aspects of development. For example, Anderson, California, has a slopes district ordinance that establishes minimum lot sizes and maximum percentages of lots that may be covered based on the maximum slope of the building site. A manual on preparing and implementing environmental performance standards was prepared in 1975 (Thurow, Toner and Erley 1975). The Georgia Mountains Planning and Development Commission prepared "land management performance standards" in 1979 which focus on environmental protection.

Administrative requirements for implementation. Reports from experts, such as a geologist or soil scientist, are needed for certain environmental performance standards

such as hillside/slope zoning. Compliance must be shown and mitigation measures proposed and approved. This takes professional competence both to propose and to review and approve developments subject to environmental performance standards. Once standards are in place, prospective developers can be required to collect the information needed for staff or elected officials to assess compliance with them (Schiffman 1999).

Political considerations. Unknown without further study. However, resource saving regulations place additional restrictions on what individuals can do with their private property. Development interests, however, have been supportive of certain nontraditional tools such as performance standards (Schiffman 1999).

Effectiveness. Unknown without further study.

Legality. Schiffman (1999) notes that performance controls are accepted, and that if challenged they will most likely be upheld if they have been properly drafted and adequate reasons have been provided to justify them.

Applicability in rural Georgia. Environmental performance standards hold promise in rural Georgia, if multi-jurisdictional staffing can be arranged and if the standards can be written as simply as possible.

15. STAND-ALONE FUNCTIONAL LAND USE AND ENVIRONMENTAL ORDINANCES

Description and purpose. In contrast to producing a comprehensive land development code containing zoning, subdivision regulations, and environmental protection measures in one (or only a few) documents, rural local governments might find the need or desire to adopt individual, stand-alone, ordinances that deal with specific land use or environmental issues. For example, in our Task 1 report, we noted that several rural local governments have adopted or intend to adopt mobile/manufactured home ordinances. That is one topic we have already planned to include in the model land use management system. There are numerous other examples (see subsection below), and the purposes of these individual ordinances vary. However, all of the examples cited are within the context of land use regulation or environmental land use regulation.

Example applications. The Georgia Department of Community Affairs (not dated) has produced model, stand-alone ordinances for protecting water supply watersheds and groundwater recharge areas. Frank Jenkins has worked with Floyd County in the past to develop a stand-alone ordinance dealing specifically with quarries as a land use issue. Numerous case studies of stand-alone ordinances are presented in Mantell et al. (1990), including a freshwater wetlands and drainage ordinance in Yorktown, New York, a wildlife protection bylaw in Falmouth, Massachusetts, and a mountain view ordinance in Denver, Colorado.

Administrative requirements for implementation. The requirements to prepare and administer stand-alone functional ordinances depend, of course, on the content and complexity of each individual ordinance. Therefore, generalizations cannot be made here.

Political considerations. Because conventional zoning is comprehensive in nature, it is often unpalatable in rural areas. In contrast, functional stand-alone ordinances may provide local elected officials with the opportunity to address specific concerns for which there is consensus to take action.

Effectiveness. Due to their more detailed attention to specific land use or environmental problems and issues, stand-alone ordinances are likely to be very effective in addressing specific problems and issues.

Legality. Individual, stand-alone ordinances to protect the environment should be legal because of local governments' authorization to implement their land use plans and because of the specific state constitutional and statutory authority to protect vital areas. In addition, various stand-alone ordinances should be considered legitimate within the context of local government police powers and home rule authority.

Applicability in rural Georgia. Very good. Stand-alone ordinance contents should be included, as appropriate, in the model land use management system.

16. CORRIDOR, INTERCHANGE AND OTHER PARTIAL ZONING SCHEMES

Description and purpose. This tool is a less-than-comprehensive zoning ordinance to regulate specifically designated areas such as a highway corridor, a highway interchange, a river corridor, or other subarea of a jurisdiction. The purpose of this tool would be to establish zoning in a specific geographic area of a county because land use controls are needed there but are not necessary or politically acceptable in other portions of the jurisdiction.

Example applications. There are no known examples of partial zoning schemes in Georgia. However, there are examples in western states where zoning has been adopted for an urban area or other portion of a jurisdiction that is under significant development pressure. For example, Cowlitz County, Washington, has a zoning ordinance that applies to an urbanized area surrounding the cities of Longview and Kelso, but the vast majority of the county (which is mostly private forestland) remains unzoned. Similarly, Gallatin County, Montana, has developed separate zoning ordinances for portions of the county experiencing resort development, while the remainder of the county is unzoned.

Administrative requirements for implementation. Partial zoning schemes require virtually the same type of expertise to prepare and administer as comprehensive, conventional zoning ordinances, albeit with a smaller workload due to the reduced scale of geography.

Political considerations. A rural county may have concerns about development only in one particular portion of the county. If a partial zoning scheme is legally permitted (see discussion below under "legality"), it may be politically acceptable for the local government to adopt this type of tool. The alternative, in many instances, would be no land use regulations at all.

Effectiveness. Unknown without further study. However, if development pressures are focused in one major area that is covered by a partial zoning scheme, the net result of a

partial zoning scheme may be equal in its effectiveness to a comprehensive, conventional zoning ordinance.

Legality. Unknown. The concept of zoning part of a jurisdiction while leaving the remainder unzoned may violate past precedents and legal principles that "zoning must be done in accordance with a comprehensive plan." However, the phrase "in accordance with a comprehensive plan," which has its origins in the Standard State Zoning Enabling Act, has never been precisely defined and has always been subject to debate among planners and lawyers. Therefore, additional legal research is needed.

Applicability in rural Georgia. Very good. There are several instances where portions of counties are ripe for land use regulations, but the remainder of the county is too slow-growing to justify being subjected to a comprehensive, conventional zoning ordinance.

17. USE REGULATIONS WITHOUT USING ZONING DISTRICTS

Description and purpose. This alternative would establish various regulations for specific uses, but the location of such uses would not be restricted by zoning district. This alternative is similar to the alternative of adopting stand-alone, functional ordinances for specific land uses, but it would apply to multiple specific uses as determined appropriate by the local governing body.

Example applications. There are no known example applications in Georgia or elsewhere.

Administrative requirements for implementation. This alternative would require a building permit and development permit system to be in place prior to or concurrent with implementation. It would be simpler to administer than a conventional zoning ordinance, because it would not involve the processing of applications for rezoning since there would be no zoning districts.

Political considerations. By selecting certain land uses for regulation but possibly excluding others, such an approach may be subject to criticism that various users are being singled out for regulation while others remain unregulated.

Effectiveness. Unknown, since there are no known examples.

Legality. Unknown. While the regulation of land uses by zoning district is clearly legal, using a land use regulatory scheme that does not establish zoning districts has not been legally tested. It is arguably similar to a performance standards approach which does not use a zoning map. However, it is much different from a performance standards approach in that it is based on the regulation of specific uses. Additional legal research is recommended.

Applicability in rural Georgia. This alternative may have merit in rural Georgia, because only those uses that raise concern locally could be addressed in the ordinance. For instance, a local government that wants to address gas stations, retail centers, and industrial uses could develop land use standards for just those uses and leave others unregulated. Due to this flexibility, it appears that it may be applicable in rural Georgia, subject to additional legal research.

18. MAJOR PERMIT REQUIREMENT

Description and purpose. This alternative is a modification of Vermont's Act 250 (adopted in 1970) permitting requirements. It would establish a local permit requirement for certain types of development. Rather than have such permits considered and acted upon by a regional commission, as is the case in Vermont, this alternative suggests that cities and counties could be the permit authority.

Example applications. Vermont's Act 250 establishes a permit requirement for virtually any development involving a "greater than local" impact. All housing projects with ten or more units, all subdivision proposals with ten or more lots, and commercial or industrial projects involving more than one acre in towns without zoning regulations, are among the types of development covered by Act 250 permit requirements. Permit requirements do not extend to farming and forestry activities.

Administrative requirements for implementation. While the locality could implement the permit process, there is likely going to be a need for an appeal procedure. Vermont administers the Act 250 permit requirements on a regional basis. Particularly complex permit applications require more expertise to administer. Adequate staffing has been an issue with Act 250 permit requirements (DeGrove 1984). The administrative requirements of a major permit ordinance would be similar to the "development standards and site plan review ordinance" alternative described above.

Political considerations. By exempting small scale developments and agricultural and forestry activities, this approach may be politically acceptable in rural communities. There is consensus in Vermont that the citizen-based approach to district environmental commissions (reviewers of Act 250 permit applications) "is one of the outstanding strong points of the law" (DeGrove 1984).

Effectiveness. In Vermont, very few Act 250 permits have been denied, but approvals have been made mostly with substantial conditions attached. The greatest problem with Act 250 implementation has been the failure to monitor and enforce permit conditions. Some believe that more detailed regulations are needed to ensure standard treatment of projects across the state (DeGrove 1984).

Little empirical evidence exists regarding whether Vermont's Act 250 is working. The law reportedly is having difficulty in achieving its main goal of mitigating negative environmental effects of development. Act 250 is aimed at large-scale development and, as a result, it allows small-scale subdivisions to escape review. The law also unintentionally encourages large lot subdivisions (with lots of ten acres or more in size) which threaten the future of farm and forestry operations. The law has not stemmed building activity or land sales to out-of-state residents. The law seems to have improved the quality of large scale development, however (Daniels and Lapping 1984).

Legality. At first glance, it does not appear that there would be any major legal obstacles to a county establishing a permit requirement for selected types of development and then subjecting developments to conditions of approval. However, the advice of a land use attorney is needed.

Applicability in rural Georgia. Good, subject to review of legality. Rural local governments probably do not have existing staffs that can administer such a

requirement, and regional or multi-county staff sharing arrangements would be needed in most cases.

19. OFFICIAL MAP

Description and purpose. The official map is not to be confused with the term, "official zoning map." They are separate and distinct terms. An official map is a map specifying the location and extent of future lands that the local government needs for public purposes. It provides more or less exact boundaries where the community intends to purchase land for streets and other facilities. An official map allows local governments to reserve designated land areas for future public improvements. It is intended to minimize indiscriminate construction of buildings and utilities that may be incompatible with plans for future public improvement activities (Ndubisi 1992). It is adopted by the local governing body to put the public on notice of the local government's intent to eventually "take" or acquire and use such lands designated on the official map for public purposes. An official map is a "regulatory" tool, in that it prevents development within lands dedicated for public purposes, subject to constitutional limitations (see legality) (American Planning Association 1998).

Official maps can show parks, utility corridors, fire station locations, school sites, and virtually any other facility for which land is needed in the future. However, official maps are primarily intended and used to protect future highway and road rights-of-way. The rationale for road reservations via official maps is that, if permanent structures are built in a future right-of-way, it will create an obstruction that will increase the cost to the public for condemnation. The need for designating on an official map other public land reservations, such as parks and school sites, is much less clear since alternative sites for these facilities should be available.

Example applications. The official map as a land use tool has its roots in the Standard City Planning Enabling Act (1928). The official map was also described as "mapped streets acts" by planner and attorney Alfred Bettman in 1935 (American Planning Association 1998). Planner Fred Bair (1979) provides a "major street ordinance" generally designed to implement a major street plan, thus serving some if not most of the functions of an official map in the context of streets. Ndubisi (1992) describes official maps and provides a generic example. The official map as a tool has never really gained popularity among local governments in Georgia. In fact, there is no known evidence of local applications of official maps in Georgia.

Administrative requirements for implementation. Once adopted, the official map must be updated to account for changes in the way a community has grown. Such required adjustments require labor and monetary investments (Ndubisi 1992). A Board of Appeals is strongly recommended to hear variances or modifications, if not required altogether by the official map ordinance.

Political considerations. Unknown.

Effectiveness. Ndubisi (1992) finds that an official map "is an effective tool not in general use for small communities facing rapid growth and investment in public facilities." He finds that official maps can reduce expenditures, provide an accurate record of existing and planned public facilities, and that they help developers plan their properties in a manner consistent with community plans.

However, Ndubisi (1992) also finds that an official map alone is not an effective tool in implementing a comprehensive plan. The absence of any discussion about official maps in growth management texts (Kelly 1993; Nelson and Duncan 1995; Porter 1997) suggests that official maps are not considered an essential growth management tool. Even the most frequently cited land use planning text (Kaiser, Godschalk and Chapin 1995) does not provide a discussion of official maps.

Legality. Most states authorize local governments to adopt official maps (Rathkopf and Rathkopf 1989). A New York Court of Appeals case, Headley v City of Rochester (272 N.Y. 197, 5 N.E.2nd 198) (1936) upheld the constitutionality of a local provision prohibiting buildings within the bed of a mapped street (Rathkopf and Rathkopf, 1989).

In Georgia, official maps were authorized by the General Planning and Zoning Enabling Act of 1957. The enabling legislation provided that an official map could be adopted which shows the location of streets, public building sites, and public open spaces. The law also indicates that an official map could also show public sites approved on plats of subdivisions which have been approved by the local planning commission. If a master plan or at least a street plan is developed, a local planning commission may adopt an official map showing future streets. The enabling legislation also provides for a showing of parks, playgrounds, and other public open spaces on the official map, and it enables local governments to adopt ordinances that prohibit or restrict building construction within future streets and future public use properties. It provides for an appeal to the Board of Zoning Appeals or if none exists a Board of Appeals created for that purpose.

The 1957 enabling legislation, as of 1976 when changes were made to the state constitution, was invalidated and thus no longer appears in the Georgia Code. Hence, there is no enabling legislation for adopting official maps in Georgia.

There may be a need to provide relief via a variance process to avoid U.S. takings challenges in light of Lucas v South Carolina Coastal Council (505 U.S. 1003) (1992). Ndubisi (1992, p. 27) calls this a "modification." Rathkopf and Rathkopf (1989) indicate that "power similar to that conferred with respect to zoning variances is customarily given to boards of appeals to vary requirements [of official maps] in particular situations."

Based on the Lucas case, local governments must make sure that the official map designation does not result in a permanent or indefinite deprivation of all reasonable uses. In various state court cases involving the issue of an official map, many state courts have repeatedly held that the mere indication of a property on an official map does not by itself constitute a taking. The Standard City Planning Enabling Act indicated that the official map is only a reservation of the land and not a formal establishment of right-of-way or a taking of land therefor. However, this provision is "no longer workable" in that it opens the door to takings claims (American Planning Association 1998). It tends to imply the land will be acquired through eminent domain or purchase. Planner Fred Bair (1979, p. 210) observes that "courts have frowned on efforts of cities to protect right-of-way until such time as it is convenient to acquire it, on grounds that this is a taking of property without just compensation."

An official map designation might possibly run afoul of the provisions of the Georgia Development Impact Fee of 1990. For instance, that law limits the nature in which system improvements can be acquired (or required of developers) by local governments.

If a local government that charges impact fees for parks and recreation and designated future park sites on an official map, and then tried to exact that park site from a developer during the development application process, this would appear to be a violation of the principles of the development impact fee act. However, these concerns appear to be remote, since to merely designate it as a future improvement does not imply the local government is trying to exact the land from a developer. Rather, that the land designated for future public use would be acquired through legal means, and if that acquisition meant credits be given toward system improvements in the case of any development impact fees charged of developers.

Applicability in rural Georgia. Because the official map is an outdated tool and there seems to be a more legally viable alternative called a corridor map (see discussion below) for the primary purpose to which official maps are put (i.e., reservation of transportation right-of-way corridors), it is not recommended for use in Georgia.

20. CORRIDOR MAP

Description and purpose. This tool is much like the official map, described above, but only for streets and other linear transportation facilities. It is also similar to what Fred Bair (1979) describes as a "major streets map." The corridor map includes land designated by the state transportation department for the construction or improvement of transportation facilities.

Example applications. The American Planning Association's Legislative Guidebook provides a model statute for a corridor map. It only applies to transportation facilities.

Administrative requirements for implementation. A corridor map requires a comprehensive plan that designates future streets and linear transportation facilities. Therefore, a comprehensive plan with specific recommendations on future streets and linear transportation facilities should be considered a prerequisite. It requires coordination with the state transportation department if it is to include state highways and other linear transportation facilities. Procedures for adoption should generally follow minimum standards specified in the Zoning Procedures Act, including general notice in a newspaper of general circulation and holding a public hearing. Written notice to all owners of parcels of land involved in a future transportation corridor is also advisable

Political considerations. As noted by the American Planning Association, a local government may for political reasons prefer to write its corridor map ordinance in a way that allows the local government to exercise an option to buy the parcel instead of establishing pre-existing rights in the land.

Effectiveness. *Unknown, since this tool has apparently not been widely implemented.*

Legality. The corridor map is reportedly more legally defensible than an official map. Since an official map was once specifically enabled in Georgia, the corridor map (a derivative) should also be considered legal. See the section above on "administrative requirements for implementation" for additional recommendations. The corridor map ordinance must be carefully written so that it does not restrict all reasonable uses of a given parcel (see discussion under "official map").

Applicability in rural Georgia. This tool holds some promise in rural Georgia, where local governments see the need to protect future road corridors from encroachment by buildings.

21. LAND CLASSIFICATION AND REGULATION

Description and purpose. This approach, which is intended to apply to urbanizing counties, would consist of a text (with regulations and policies) and a map that designates a limited number of distinct areas: a built-up area; an undeveloped area subdivided into high-intensity and low-intensity development sectors; protection areas; and rural "holding" zones. The line which separates the built-up areas from undeveloped areas is referred to by Noble (1967) as the "development frontier." In modern terms this is referred to as an urban growth boundary. Within the built-up area, a conventional zoning ordinance would apply with the intention of protecting established neighborhood character. Outside the development frontier, development sectors would be designated, within which large-scale urban development for high-intensity uses would occur. Development could take place be rezoning to a "floating zone" established in the zoning ordinance. Outside of development sectors in the undeveloped area, only small-scale rural development would be allowed by right.

Example applications. The system described here was proposed in 1967 in a report by Jack Noble published by the American Society of Planning Officials. Specific examples are not provided. However, the proposal resembles what is called a "land classification" approach in the planning literature. Moreover, this concept appears to be an early iteration of land classification and Freilich's (1999) urbanizing tiers concept which has been implemented in numerous areas of the U.S.

Administrative requirements for implementation. The administrative requirements would not be much different from administering a conventional zoning ordinance. An official map would be used in conjunction with this tool.

Political considerations. Unknown. However, to the extent that such a system would apply more restrictive controls than conventional zoning, it would appear to be more difficult to muster the political will locally to adopt such an approach.

Effectiveness. This type of system is considered to be much more effective at managing growth than conventional zoning. It has been shown that systems of this sort are more effective at containing urban development and preventing its encroachment on farm and forest lands.

Legality. The basic nature of this concept is legal in Hawaii, Oregon, and Washington, and possibly other states.

Applicability in rural Georgia. Possible. There is some simplicity to the concept that lends itself to rural areas, if they are experiencing significant urbanization. Although the system as proposed is considered applicable only to growing (urbanizing areas), variations of this approach might be appropriate in rural, slower growing areas of Georgia, if the regulations and policies on development in the "undeveloped area" are not overly restrictive. We had already agreed to include a land use intensity districting alternative in the model code, and this alternative system can be worked into that option, with an emphasis on managing the timing and location of growth in rural areas.

22. DEVELOPMENT ALLOCATION SYSTEMS

Description and purpose. An allocation or "quota" system places a carefully selected numerical limit or quota on the amount of development which will be approved during a designated time frame. The quota may be a permanent cap on population, or an annual growth rate, or an annual cap on the number of permits for housing units issued, for example. Different rates of development might be established for separate areas. Development proposals are evaluated and ranked based on the degree that they satisfy criteria designed to ensure consistency with the land use management system's goals and objectives. The quota is then allocated to development in accordance with rankings until all proposals are approved or the quota for the given time period is exhausted (Chinn and Garvin 1992). A development allocation system can be designed to serve many different purposes, including addressing a local government's inability to provide public facilities and services needed for new development, preserve the status quo during revision of land use regulations, protecting quality of life, preserving open space and environmentally sensitive areas, and agricultural and historic preservation (Chinn and Garvin 1992).

Example applications. None in Georgia. Ramapo, New York, was one of the first local governments to implement a development allocation system. Petaluma, California is another famous example of a development allocation system.

Administrative requirements for implementation. A development allocation system can reportedly be either simple or complex, depending on the goals and objectives a local government seeks to implement. However, a development allocation system generally supplements rather than substitutes for an existing development regulatory system and involves rather complicated administrative tasks (Chinn and Garvin 1992),

Political considerations. Political will to implement such a system is likely to be lacking in rural areas.

Effectiveness. Rigorous program evaluations of development allocation systems have not been conducted. However, rate of growth ordinances and development quotas are generally effective at limiting the quantity of growth.

Legality. An allocation system for Ramapo, New York, was upheld in the landmark case, Golden v Planning Board of Town of Ramapo (334 N.Y.S. 138, appeal dismissed, 409 U.S. 1003) (1972). A federal court upheld Petaluma, California's allocation system in Construction Industry Association of Sonoma County v City of Petaluma (522 F.2nd 897) (9th Cir. 1975) (cert. Denied, 424 U.S. 934) (1976). Currently, there is no sound legal basis or enabling authority for the implementation of growth management tools of this sort in Georgia. Since Ramapo and Petaluma, courts in California and perhaps

elsewhere have consistently upheld development allocation systems as a legitimate means of promoting the public welfare (Chinn and Garvin 1992).

Applicability in rural Georgia. Remote, due to lack of legal basis in Georgia, a lack of specific enabling legislation, and the absence of political will for strong growth management techniques. In limited instances, such as interim controls while an a permanent system is designed and implemented, or in the case of facility shortages, a development allocation system might have some limited applicability.

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APPENDIX
A BASIC TEMPLATE FOR CONDUCTING QUALITY GROWTH AUDITS

Commentary*: This template provides the planner with a way of systematically evaluating the comprehensive plan, zoning ordinance, subdivision and land development regulations and capital improvement program to determine the extent to which major components of quality growth are realized. In the sections on regulations, this appendix also provides references to provisions of this Model Land Use Management Code and other sources that can be used to help meet accepted criteria for quality growth.*

This is a simplified version of a detailed checklist for smart growth auditing. For the full version of the checklist and for additional commentary, see the Atlanta Regional Commission's Community Choices Quality Growth Toolkit, "Smart Growth Audit," which is available online at http://www.atlantaregional.com/quality growth/toolkits.html.

COMPREHENSIVE PLAN

Land Use

- Is the land use plan efficient in terms of the amount of undeveloped land devoted to residential uses, when compared with the projections of residential land needed?
- Does the land use analysis identify in quantitative terms (i.e., number of acres and preferably buildout potential in numbers of units) what the potential is for residential infill development and commercial redevelopment?
- Does the land use element contain an analysis of developed residential densities and how they relate to planned densities and densities permitted by zoning districts?
- Does the land use plan designate areas, where appropriate, for mixed-use development?

Housing

- Does the housing element of the comprehensive plan contain a housing needs assessment?
- Does the comprehensive plan establish a policy of providing for a wide range of housing types (detached single-family, duplex, manufactured home, apartment, etc.)?

Transportation

- Do transportation policies and the future transportation system provide for local street networks (as opposed to the conventional hierarchical system of arterials, collectors and local streets)?
- Does the comprehensive plan encourage new or modified transportation facilities to be "context-sensitive" (e.g., see the Transportation Research Board's NCHRP Report 480: "A Guide to Best Practices for Achieving Context-Sensitive Solutions")?

Environment

- Does the plan establish a goal, policies and implementation measures to set aside a certain percentage of total land area in the community as permanent community open space or green space? (Note: Do not count private yards)
- Does the plan consider whether environmentally sensitive areas should be the highest priority for set-asides for open space?

Infrastructure

- Does the comprehensive plan provide clear discussions of how water and sewer infrastructure policies are tied to the goals and objectives of the land use plan? Transportation plan?

- Do water and sewer facility master plans provide for the phasing of future trunk water and sewer extensions into areas designated for development in the short-term, versus allowing such lines to be extended without restraint anywhere in the community?
- Do water and sewer facility master plans, or the comprehensive plan, provide a policy for directing facility extensions away from environmentally sensitive areas or areas otherwise set aside from development?

Regionalism

- Does the comprehensive plan demonstrate a consideration of (and is it consistent with) plans of neighboring jurisdictions?
- Is the local comprehensive plan consistent in all major respects with applicable regional comprehensive and functional plans?

ZONING ORDINANCE

Land Use

- Do minimum lot sizes allow for urban-sized lots?

Commentary: See § 6-1-6.4, Urban Residential District, which allows for 10,000 square foot minimum lots. Even smaller (i.e., 5,000 square foot) lots are appropriate, however.

- Is at least some of the residential land in the community planned and zoned for densities between 8 and 15 dwelling units per acre, with even higher densities provided for in urban centers?

Commentary: See the Central Business District land use intensity district in § 6-1, which allows residential up to ten units per acre in conjunction with nonresidential uses.

- Does the zoning ordinance zone much of the fringe land as exclusively agricultural (i.e., a holding category), or with a substantial (e.g., 25-acre) minimum lot size that discourages single family tract housing and preserves large sites for viable farm use?

Commentary: The Model Land Use Management Code has an AG, Agricultural land use intensity district (see § 6-1) that sets the minimum lot size at 10 acres, and it also restricts residential uses to dwellings which are farm related and subordinate to the principal use of the property for agricultural uses. For another option to discourage residential development at the fringe, see the Land Use Guidance (Point) System in § 6-6.

- Does the local zoning ordinance provide at least one or more zoning districts that allow mixes of residential and commercial uses?

Commentary: See the Central Business District land use intensity district in § 6-1, which allows residential up to ten units per acre in conjunction with nonresidential uses.

Housing

- Do planned unit development (PUD) regulations provide for an appropriate mixture of housing and jobs, or do the PUD regulations result in predominantly single-family residential developments with no jobs nearby?

Commentary: For a model and commentary on developing PUD ordinances, see § 3-8 of the Model Land Use Management Code.

- Does the zoning ordinance allow for "accessory apartments" within single-family residential zoning districts?

Commentary: For definitions of accessory apartment and Model provisions, see § 3-10, Residential Infill Development, which allows accessory apartments within a designated residential infill development overlay district.

- Are minimum lot sizes set low enough in at least one residential zoning district to provide for homeownership for all income classes?

Commentary: See § 6-1-6.4, Urban Residential District, which allows for 10,000 square foot minimum lots. Even smaller (i.e., 5,000 square foot) lots are appropriate, however.

Transportation

- Are land use regulations "transit-friendly" or "transit supportive?"
- Have "context-sensitive" transportation project solutions been incorporated into street and sidewalk standards?

Commentary: For "livable" or "skinny" street standards, see § 2-5, Commentary, its accompanying module, § 2-5 Alternative Street and Sidewalk Specifications. Also see § 2-6, Bicycle Facility Specifications.

- Do land use regulations include maximum parking ratios (i.e., a cap on the number of parking spaces that can be built in a particular development), in addition to minimum parking requirements?

Commentary: The Model Code does not provide for maximum parking ratios. However, they are provided at the end of this appendix.

Environment

- Do all (or most) zoning districts require a minimum open space ratio (i.e., percentage of land area for each development that must be open space)?

Commentary: The land use intensity district scheme in § 6-1 includes minimum percentages of open space for certain nonresidential districts of 20-25 percent of the lot. For an application independent of zoning or land use intensity districts, see § 3-2, Development Performance Standards, Table 3-2-3, Land Use Intensity Ratios.

- Do local land use regulations prohibit development within, and the filling of, floodways and floodplains?

Commentary: See section § 2-1-6.14, which prohibits the alteration and filling of floodways that will increase the elevation of the base flood discharge. Also see § 2-1-6 generally for flood plain regulations.

- Do local land use regulations prohibit development within other environmentally sensitive areas, or at minimum require mitigation for any permitted disturbance of such areas?

- Do engineering construction specifications for parking lots allow for porous pavements where appropriate?

Regionalism

- Has the local government considered how compatible its land use regulations are with those of neighboring jurisdictions? If so, can inconsistencies be reconciled?

SUBDIVISION AND LAND DEVELOPMENT REGULATIONS

Transportation

- Are sidewalks required within new residential subdivisions?
- Do development regulations require the installation of a sidewalk along existing public streets abutting the development, where such sidewalk does not already exist?
- Do sidewalk design specifications require that sidewalks along major streets be set back an appropriate distance from the curb and separated from traffic by a planting strip or on-street parking?

Commentary: For sidewalk provisions that address these issues, see § 2-3-14 of the Model Code.

- Do land use regulations encourage, if not mandate, the provision of interparcel connections between individual developments, where compatible?

Commentary: See § 2-3-10.4, "Interparcel Connections, of the Model Code.

Environment

- Do local land use regulations allow "conservation subdivisions" or "cluster subdivisions" as a matter of right? Are any incentives provided which encourage developers to develop conservation or cluster subdivisions rather than conventional subdivisions?

Commentary: A model conservation subdivisions ordinance is available from the Georgia Quality Growth Toolkit. For an alternative, "mandatory rural cluster," see § 4-7 of the Model Code.

- Do land development regulations require conformance with best management practices for water quality (e.g., from the Environmental Protection Agency or Natural Resources and Conservation Service, Georgia Forestry Commission, State Environmental Protection Division, Metropolitan North Georgia Water District, Local Soil and Water Conservation Districts, etc.)?

Commentary: Model ordinances for stormwater quality management have been developed by the Metropolitan North Georgia Water Planning District.

Infrastructure

- Are the street standards for minimum right-of-way and pavement widths excessive?

Commentary: For "livable" or "skinny" street standards, see § 2-5, Alternative Street and Sidewalk Specifications. Also see § 2-6, Bicycle Facility Specifications.

CAPITAL IMPROVEMENT PROGRAM

Environment

- Has the community considered a special funding measure such as a special local option sales tax or general obligation bond referendum for acquisition of greenspaces?

Infrastructure

- Does the capital improvement program provide for the maintenance of current roads and existing transportation systems before spending money on new ones?

Table
Minimum and Maximum Number of
Off-Street Parking Spaces Required

Use	Minimum Parking Required	Maximum Parking Permitted
COMMERCIAL USES		
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
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 per 400 square feet	One per 300 square feet
Health or fitness club	One per 200 square feet	One per 150 square feet

Use	Minimum Parking Required	Maximum Parking Permitted
Hotel, extended stay	1.5 per unit lodging unit	Two per lodging 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
LIGHT INDUSTRIAL USES		
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
GOVERNMENT – INSTITUTIONAL USES		
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
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

Use	Minimum Parking Required	Maximum Parking Permitted
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
RESIDENTIAL USES		
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; duplex	Two per unit	Four per unit
RECREATIONAL FACILITIES		
Amusement park	Per parking generation study funded by applicant and approved by the Zoning Director	
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 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

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