

## APPENDIX A - ZONING<sup>[1]</sup>

Footnotes:

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**Editor's note**— Ord. No. 375, §§ 1—12, adopted Oct. 1, 2013, substantially amended former Appendix, Arts. I—XIV. Former App. A derived from Ord. No. 325, § 1, adopted April 23, 2007, as amended.

The zoning ordinance is printed herein as enacted, except that figures or letters appearing in brackets have been added by the editor. Amendatory enactments subsequent to Ord. No. 325 are cited in parentheses following the amended sections.

**Cross reference**— Gasoline service station, Ch. 9.5; planning and zoning commission, § 15-1 et seq.; subdivision, Ch. 17.

**State Law reference**— The Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.

## ARTICLE I. - TITLE, APPLICABILITY AND PURPOSE<sup>[2]</sup>

Footnotes:

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**Editor's note**— Ord. No. 375, § 1(Attach.), adopted Oct. 1, 2013, amended former Art. I, §§ 100—102 in its entirety. Former Art. I pertained to similar subject matter and derived from Ord. No. 325, § 1, adopted April 23, 2007.

Sec. 100. - Title.

This Appendix A to the City of Clarkston, Georgia Code of Ordinances shall be known and may be cited as the "Clarkston Zoning Ordinance."

(Ord. No. 375, § 1(Attach.), 10-1-13)

Sec. 101. - Applicability.

These regulations shall apply to all present and future land development located within the incorporated area of Clarkston, Georgia. The requirements contained herein are declared to be minimum requirements necessary to carry out the purpose of this article. This article shall regulate the height, number of stories, and the size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density and distribution of population; the location and use of

buildings and other structures: and the use, condition of use or occupancy of land and trade, industry, housing, recreation, transportation, agriculture or for any other purpose; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, enforcement and amendment; creating a planning and zoning board and defining the powers and duties thereof; providing penalties and resolutions and for other purposes.

(Ord. No. 375, § 1(Attach.), 10-1-13)

Sec. 102. - Purpose.

The purpose of the Clarkston Zoning Ordinance shall be to improve and protect the aesthetic values of land and property, public health and the following purposes listed below:

- (a) To protect existing development in the city.
- (b) To improve the property within the city through redevelopment, where appropriate.
- (c) To prevent damage to improved property by way of natural disasters.
- (d) To prevent overcrowding of schools and other public facilities.
- (e) To achieve such timing, density, and distribution of land development and use as will prevent overloading public infrastructure systems for providing water supply, sewage disposal, drainage, sanitation, police and fire protection, and other public services.
- (f) To achieve such density, distribution and design of land development and use as will protect the traffic movement capabilities of streets within the city and prevent traffic hazards.
- (g) To encourage such distribution of population, land development and use as will facilitate the efficient and adequate provision of public services and facilities.
- (h) To achieve such density, design, and distribution of housing as will protect and enhance residential property values and facilitate the provision of adequate housing for every citizen.
- (i) To secure such accessibility, design and density of land development and use as will reduce fire hazards and fire losses.

- (j) To promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the City of Clarkston.
- (k) To encourage greater efficiency and economy of land development through natural resource conservation.
- (l) To preserve the city's natural beauty and encourage architecturally pleasing development.
- (m) To improve the quality of life through protection of the city's total environment including the prevention of air, visual, water and noise pollution.
- (N) To protect residents from being harmed by other existing residences, developments, and businesses.

(Ord. No. 375, § 1(Attach.), 10-1-13)

Sec. 103. - General use regulations.

No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, revitalized, moved or altered, except in conformity with the regulations of this Clarkston Zoning Ordinance. Any use of property not expressly permitted by this Clarkston Zoning Ordinance shall be deemed to be prohibited.

(Ord. No. 375, § 1(Attach.), 10-1-13)

Sec. 104. - Development projects under construction.

Nothing in this article shall require any change in the development or proposed use of properties which are legally under construction or for which a development plan or preliminary plat has been approved within five (5) years of the effective date of this article and the development of which shall be commenced within one (1) year after the effective date of this article. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

(Ord. No. 375, § 1(Attach.), 10-1-13)

## ARTICLE III. - ADMINISTRATION<sup>[4]</sup>

Footnotes:

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**Editor's note**— Ord. No. 375, § 3, adopted Oct. 1, 2013, repealed former Art. III, §§ 301—323, in its entirety and enacted new provisions as herein set out. Former Art. III pertained to similar subject matter and derived from Ord. No. 325, § 1, 4-23-07; Ord. No. 358, §§ 1, 2, 3-1-11.

Sec. 301. - Administration of ordinance.

It shall be the duty of the city manager or his designee, and he is hereby given the authority, to administer and enforce the provisions of this ordinance.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 302. - Application requirements.

Applications to amend the zoning map (rezoning), amend the future development map, planned developments, and building permits shall, as part of the application, include a set of development plans. Submitted development plans for the above projects and the eventual issuance of a building permit shall be prepared in accordance with the requirements of section 316. The plans shall contain the required number of sets (specified on each application) and shall illustrate each of the following elements, unless determined inapplicable to a specific development by the city.

- (a) *Site analysis*. A site analysis and topographic map at a readable scale (1" = 100' minimum) shall include information on the following:
  - (1) Existing shape and dimensions of the lot to be built upon including the size, measurement and location of any existing buildings or structures on the lot.
  - (2) Utilities.
  - (3) Streams and easements.
  - (4) All existing man-made and natural features to be retained, moved, or altered.
- (b) *Site plan*. A site plan at a readable (1" = 100' minimum) scale showing compliance with all regulations and calculations required by the zoning ordinance which shall include but not be limited to information on all proposed improvements including:

- (1) Boundary survey completed by a certified surveyor.
  - (2) A correct scale and north arrow.
  - (3) The present zoning classification of the subject and all adjacent parcels.
  - (4) Proposed land use and building footprints with door locations.
  - (5) The gross square footage of proposed buildings.
  - (6) Required yard setbacks appropriately dimensioned.
  - (7) Densities.
  - (8) The location of required off-street parking and loading spaces including total number of spaces, space and driveway dimensions.
  - (9) Internal circulation including the proposed location of all driveways and entry/exit points for vehicular traffic, using arrows to depict direction of movement.
  - (10) Building height.
  - (11) Sidewalks.
  - (12) Utilities, grading, drainage, amenities, and similar details including their respective measurements.
  - (13) Any applicable buffer boundaries such as streams, or other planted buffers as required by zoning district.
- (c) *Landscape and tree plan.* A site plan at a readable scale (1" = 100' minimum) showing compliance with all regulations and calculations required by the zoning ordinance which shall include but not be limited to information regarding:
- (1) Landscaping, including tree species, the number of all plantings, and landscaping that is replacing what is being removed.
  - (2) The location and extent of required buffers and screened areas, depicting extent of natural vegetation and type and location of additional vegetation if required.
  - (3) Open space.
- (d) *Architectural design.* The architectural design elements showing compliance with all regulations and calculations required by the zoning ordinance which shall include but not be limited to:
- (1) Scaled elevation drawings of proposed structures.

(2) Information on building materials, features, exterior finish, windows, doors, colors, and items affecting exterior appearance, such as signs, air conditioning, grills, compressors, and similar details including their respective measurements.

(e) Groups of buildings on the same parcel of land may be reviewed and permitted as a single project (planned unit development) rather than individual buildings. Grouping of similar buildings is encouraged to minimize the number of reviews required and to allow for originality and design flexibility. The requirements and procedures for planned unit developments are governed by Article VIII of this ordinance.

(F) The Planning and Development Director may request a traffic study as part of an application to amend the zoning map or a planned unit development if the Planning and Development Director believes that such a change and/or development may have a significant impact on traffic. The Planning and Development Director may also request an environmental or economic impact study if the Planning and Development Director believes that such a study is necessary in order to consider the application.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 303. - Application submittal and completeness.

No application shall be deemed accepted and filed until all required forms have been completed and all required materials have been submitted, including fees. The date an application is complete and hence accepted and filed shall be noted on the application form by the Planning and Development Director or other designee as appointed by the city manager. The Planning and Development Director shall notify the City Council and the public at the next city council meeting upon the receipt of an application for a zoning change, variance or conditional use permit, or any advertised proposed change in the zoning code. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria as required by the relevant zoning code section. Any subsequent deadlines tied to date of application shall begin to run as of said date.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 304. - Zoning ordinance and map amendment procedure.

The city zoning ordinance, including the zoning map, may be amended from time to time by the mayor and city council, but no amendment shall become effective unless it shall have been first submitted to the planning and zoning board for review and recommendation.

(a) *Planning and Development Director Review.* Upon receipt of an application for amendment of the city zoning ordinance or zoning map, or a conditional use permit, the **designated** Planning and Development Director shall review the application and prepare a written analysis of the application, which shall be provided to the planning and zoning board as well as the city council. In the absence of a designated Planning and Development Director, the application shall proceed directly to the planning and zoning board review.

(b) *Planning and zoning board review.*

(1) All applications for zoning text or map amendments, conditional use permits or variances shall be submitted to the planning and zoning board for review. Such review shall be conducted based upon the standards for land use approval set forth in section 305 of this article. The planning and zoning board shall meet with the applicant and consider the application at its next regularly scheduled meeting. Such meeting shall include a public hearing and the planning and zoning board shall take comment from the applicant and the public with regard to the application. ~~An accessible site plan or other~~ All required and relevant documents shall be presented by the applicant to the public and planning and zoning board at the public hearing. Following the public input and comment, the planning and zoning board shall, upon appropriate motion, vote to recommend approval or denial of the application. It may make such recommendations as it deems appropriate in the best interests of the city, including references to the requirements of Section 312 for conditional use permits, including the specification of certain conditions to its approval of any proposed zoning action.

(2) The planning and zoning board shall make a written report of its recommendation to the city council and mayor with respect to its findings. Such written report shall be a part of the permanent record of the application and shall be reported at any meeting of the city council which considers the application. Upon motion, the planning and zoning board may defer any application which it

deems to be incomplete. An application may be deferred on only one occasion. An applicant may withdraw his application at any time until a final recommendation on the application is issued by the planning and zoning board.

(3) *Failure to act.*

- a. Failure by the planning and zoning board to act upon any application shall not cause delay of process unless such failure is due to incomplete data or information in an application. Should the planning and zoning board fail to act upon any complete application, it shall pass to the city council with a notation thereon that the planning and zoning board has reviewed but failed to act upon the application.
- b. If the planning and zoning board fails to submit a report within thirty (30) days of its first meeting after it has received an amendment request complete in all respects, it shall be deemed to have recommended approval of the proposed amendment. However, the planning and zoning board and the applicant for an amendment may jointly agree to a postpone action for a thirty-day period.

(4) The city council shall hear the application at its next meeting which complies with the Zoning Procedures Act of the State of Georgia.

(5) Provisions for application withdrawal shall be as established in section 310.

(c) *City council and mayor.*

(1) *Public hearing procedures.* Before the mayor and city council shall approve any zoning **text or map** amendments to the city's zoning ordinance or any conditional use permit, or variances they shall hold a public hearing thereon, except for amendments to section 311, for which no public hearing shall be required.

a. The notice of such hearing shall be published at least fifteen (15) but not more than forty-five (45) days prior to the hearing on the proposed action, such publication to be in the legal organ for DeKalb County, Georgia. The notice shall state the time, place, and purpose of the hearing.

b. Said public hearing may be continued to the next regular city council meeting date and for additional consecutive regular



meeting dates, or such other date as directed by the mayor, without further legal notice as good planning requirements dictate and the mayor and city council deem necessary, provided that the date on the sign advertising the hearing be changed to reflect the continued hearing date.

c. If the requested zoning action is for the rezoning of property and is initiated by a party (applicant) other than the city, then:

(i) The applicant shall erect on the subject property, not less than fifteen (15) days prior to the hearing, a sign giving the date, place and time of the city council public hearing; the city staff shall be responsible for providing the signs to the applicant and ensuring that such sign stays where placed and in legible condition.

(ii) The notice to the legal organ as required above shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification for the property.

(iii) The applicant shall also cause notice of the date, place and time of the city council public hearing to be given by regular mail, with mailings at least 14 days prior to the hearing, addressed to property owners (as ownership and address appears on the tax records of DeKalb County) of all property within 300 feet of the property involved in the proposed change, unless said property owners shall provide to City Staff in writing of an email address that the property owners would prefer to receive notice of the public hearing at, in which case the applicant may give notice of the public hearing via email to those property owners as an additional courtesy. Applicant must provide staff with documentation of certified mailing which includes, but is not limited to property owners' names, addresses and evidence of the certified mailing. City Staff shall also place the notice of the date, place and time of the public hearing ~~on the Clarkston City Council agenda~~ as a staff report at least fifteen (15) days prior to the Planning and Zoning and City Council public hearing(s).

(IV) A Community Open House Meeting shall be scheduled with all property owner(s) and developer(s) that initiate an application for approval for a rezoning over 5,000 sq. ft., planned unit developments as outlined in **Article IX Planned Unit Developments, Section 17 Subdivisions** over two (2) lots of the Clarkston Code of Ordinances and/or as deemed necessary by the Planning and Development Director.

(A) The applicant required community open house meeting shall provide to the Planning and Development Director;

A copy of the mailing list of all property owners within 300 feet of the subject property, including name, street address, and tax parcel identification number and;

A copy of the letter to be mailed to the property owners within 300 feet of the proposed change(s) identifying the date, time and location of the community open house meeting regarding the proposed rezoning, conditional use. and/or development.

(B) A community open house meeting shall be held as close as reasonably possible to the subject property within the City of Clarkston no later than 30 days prior to the date of the planning and zoning public hearing on the subject.

(C) A meeting summary shall be provided to the Planning and Development Director before an analysis report is completed on the subject that includes, a list of meeting attendees, a summary of the concerns and issues expressed during the meeting, and a summary of the applicant's responses to the expressed concerns and issues expressed.

(D) A meeting summary report does not constitute a recommendation on the subject matter at this meeting. Applicants that comply with all requirements of the community open house meeting under this zoning ordinance regardless of how many participants attend the scheduled meeting are deemed to have met their community open house meeting requirements.

*(2) Final action.*

a. The city council and mayor shall approve, approve with conditions, or deny the request. Such final zoning action may occur at the time of the public hearing or at the next regularly scheduled city council meeting.

b. The city council shall not be bound by, but shall consider the recommendations of the planning and zoning board in its deliberations on the application.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 305. - Zoning proposal review standards.

When any request is made for a change in the zoning for any parcel of property, or when an amendment is requested to the zoning map, the planning and zoning board and the city council shall make their recommendations and ultimate decision with regard to such request after due and diligent consideration of the following:

- (1) The effect upon the health, safety, morals or general welfare of the public compared to any hardship imposed upon the individual property owner seeking rezoning should rezoning be denied;
- (2) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (3) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- (4) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
- (5) Whether the zoning proposal will result in a use that may cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
- (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;
- (7) Whether the zoning proposal is compatible with the principals of the city's long range plan as set forth in the Conceptual Master Land Use and Connectivity Plan for the City of Clarkston, a part of the Clarkston Livable Centers Initiative Study as adopted in March 2005, adopted as the city's comprehensive plan.
- (8) Whether the zoning proposal is compatible with the most current adopted version of the Future Development Map of the Clarkston Comprehensive Plan.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 306. - Conditions to rezonings.

Unless otherwise specifically provided in this zoning ordinance, any approved rezoning shall be conditioned upon the applicant's initiation of and substantial progress toward the development of the property, in accordance with the uses proposed in the rezoning application, within twelve (12) months

of the date of the initial approval of the rezoning. For purposes of this section, "substantial progress" shall mean that time when an initial construction, excavation, or site inspection has been made by city or county building or development inspectors.

(a) *Substantial progress.*

- (1) If substantial progress, as defined above, has not been made within the twelve-month period, then a material condition to the initial approval of the rezoning shall be deemed to have failed, the approval shall be revoked, and the zoning classification of the property shall revert to its original classification prior to the initial approval. Applicant is responsible for ensuring progress is initiated prior to the elapse of the twelve-month period.
  - (2) Should an applicant determine that substantial progress toward the development of the property cannot be made within the twelve-month period, he may make written application to the city council, no later than sixty (60) days before the expiration of the twelve-month period, for an extension of the twelve-month period, which may not exceed six (6) months.
    - a. The application for such extension shall be in writing and shall set forth each and every fact or circumstance upon which the request for the extension is based.
    - b. The city council, upon a finding of just cause and substantial hardship to the applicant, may extend the original twelve-month period for an additional period of time not to exceed six (6) months.
- (b) Should the applicant not seek such extension, or should the extension be denied, it shall be deemed that the subject property is not suited for the purposes proposed in the rezoning application, and the zoning classification of the subject property shall revert to the classification status it held prior to the initiation of the proposed rezoning.
- (1) This reversion action shall be the same as if a rezoning were being considered. Proper notification shall be given, a sign posted on the property and a public hearing duly advertised following the procedure outlined in section 304(c) of this ordinance.
  - (2) The public hearing shall be held and zoning action taken by the city council.

- (c) Upon the reversion action of the subject property, the applicant may not appeal such action to the mayor and city council. Should the applicant seek to rezone the property again, he/she shall comply with all of the provisions of this ordinance as required for all rezoning applicants.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 307. - Variance procedures.

The mayor and city council may authorize upon proper application in specific cases, variance from the terms of this zoning ordinance. Applications should be submitted and reviewed by the designated Planning and Development Director for technical review and recommendation in the form of a written staff report. The staff report shall be forwarded to the planning and zoning board for their consideration. In the absence of a designated Planning and Development Director, once reviewed for completion by the public works director, applications shall be forwarded directly to the planning and zoning board, which shall review the application and conduct a public hearing in accordance with section 304(b) of this appendix.

- (a) Before the mayor and city council act upon an application for a variance, they shall hold a public hearing thereon. The notice of the time and place of such hearing shall be published at least fifteen (15) days prior to the hearing in the inspector legal organ of the city or in the inspector legal organ of DeKalb County. At the hearing any party may appear in person or by agent or attorney.
- (b) In addition, city staff shall erect, at least fifteen (15) days prior to the hearing, in a conspicuous place on the property involved, a sign which shall contain: information as to the variance applied for and the time and place of hearing. However, failure to erect and maintain the sign as specified above shall not invalidate the subsequent determination of the mayor and city council.
- (c) *Mayor and city council decision.*
  - (1) The mayor and city council shall make a "variance decision" for each application. For purposes of this article the term "variance decision" means final action by the mayor and city council which results in a variance approval, approval with conditions, or a variance denial.

- (2) The "variance decision" shall be made based upon an evaluation of the variance criteria provided in section 308 of this article.
- (3) Said final action shall be made no later than sixty (60) days following filing of a complete application, unless extended by agreement of the applicant.
- (4) The mayor and city council may require accompanying written requirements as part of a "variance decision," thereby approving the variance as "conditional."
- (5) An application may be withdrawn by the applicant prior to the "variance decision."
- (6) Appeals of a "variance decision" of the mayor and city council by an aggrieved party shall be available by writ of certiorari to the DeKalb County superior court.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 308. - Variance criteria.

A variance from the terms of this ordinance must not be contrary to the public interest. Thus, the mayor and council may attach thereto any conditions which may be deemed advisable to the extent that the purpose of this ordinance will be served, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings, or structures in the same or in other districts shall not constitute a reason for a variance. A variance may be granted in an individual case of unnecessary hardship upon a finding by the city council that all of the following conditions exist:

Variance criteria:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
- (2) Such conditions are peculiar to the particular piece of property involved.
- (3) Such conditions are not the result of the actions of the applicant.
- (4) A literal interpretation of the provisions of this ordinance would create an unnecessary hardship.

- (5) The variance requested will not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.
- (6) The variance is not a request to permit a structure or use of land not authorized in the applicable district.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 309. - Administrative variances.

The Planning and Development Director, city manager or his designee shall have the option to grant variances from the development and design standards of this ordinance, where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting a variance. All applicants for administrative variances must complete the forms and follow procedures as required by the city in section 307. Each request for an administrative variance must be reviewed in accordance with the criteria established in section 308 of this ordinance. The authority to grant such variances shall be limited to variance from the following requirements:

- (1) Front yard or yard adjacent to public street—Reduction not to exceed ten percent of that required.
- (2) Side yard—Variance not to exceed three (3) feet reduction.
- (3) Rear yard—Variance not to exceed five (5) feet reduction.
- (4) Height of building—Variance not to exceed five (5) feet reduction.
- (5) Fenestration—Not to exceed twenty (20) percent deducted from the requirement.
- (6) Landscape zone—Variance not to exceed two (2) feet deduction.
- (7) Sidewalk zone—Not to exceed two (2) feet deduction.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 310. - Reapplication to the mayor and city council for variance or zoning amendments.

If an application for a variance or rezoning is denied by the mayor and city council, then such variance or rezoning of the same property may not again be considered until the expiration of at least twelve (12) months from the date of the original application. This limitation shall not apply to a rezoning initiated by the City of Clarkston or to cases where the city, by majority vote of the city council, waives the one-year limitation. A property

owner may voluntarily withdraw his application for a proposed amendment or variance prior to the public hearing where it is acted upon by the city council; such an application shall be considered withdrawn without prejudice and deemed not to be an initiation of action for zoning amendment. If the request for withdrawal by the applicant occurs after the public hearing, the zoning and review commission shall determine whether the withdrawal occurred with or without prejudice.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 311. - Zoning and sign fees.

The zoning and sign fees designated by the mayor and city council of Clarkston shall be established by separate ordinance or resolution, to be updated as necessary. However, no fee shall be charged for the construction of new fences.

Any application or permit filed pursuant to this ordinance for which the subject matter has been partially or wholly undertaken prior to approval or permit by the mayor and city council of Clarkston, the fee charged for said application or permit shall be double the amount listed in the fees ordinance (Number 297).

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 312. - Conditional use permit.

Certain uses of property, designated as conditional uses, Article VII this Zoning Ordinance, are declared to possess characteristics that may be incompatible with other uses in the district within which they are proposed for location. No conditional use shall be constructed, erected, enlarged, performed, or otherwise undertaken without first obtaining a conditional use permit.

In addition, any use that may be compatible with existing uses in the area where it is proposed and is consistent with the purpose and intent of the zoning district wherein it is proposed to be located, but does not expressly fit into the list of permitted uses for such zoning district shall require the approval of a conditional use permit. This is a zoning exception that allows the property owner to use his/her land in a way not otherwise permitted if determined that the current structure is hazardous, or uninhabitable due to structural or functional issues.



The Planning and Zoning Board mayor and city council shall each hold public hearings to hear applications for conditional use permits. The mayor and city council shall issue a conditional use permit to an applicant upon a finding that the proposed conditional use would generally be in the public interest.

- (1) In considering whether a proposed conditional use is in the public interest, the mayor and city council shall consider the following, among other relevant factors:
  - a. Whether the conditional use would be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity or diminish and impair property values within the surrounding neighborhood;
  - b. Whether the proposed conditional use would increase local or state expenditures in relation to cost of servicing or maintaining neighboring properties;
  - c. Whether the establishment of the conditional use would impede the normal and orderly development of surrounding property for uses predominant in the area; and
  - d. Whether the location and character of the proposed conditional use would be consistent with a desirable pattern of development for the locality in general.
- (2) Once a conditional use has been approved by the mayor and council, said conditional use and any conditions shall run with the land upon which the conditional use was approved.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 313. - Temporary use permit.

- (1) Certain temporary uses of property may be permitted in the RC, TC and I districts of the city.
- (2) Temporary uses include festivals, farmer's markets, storage of construction equipment, tent sales or the sale of goods from any temporary location, including but not limited to, holiday sales, fireworks sales or Christmas tree sales, as well as other special events of community interest, and other uses as the Planning and Development Director may consider being within the intent and purpose of this section.

- (3) Temporary uses are only permitted with the advance approval of the city manager or his designee within 15-30 days prior to the temporary uses of the property. No permit for a temporary use shall be issued unless:
  - (a) Written permission of the property owner is presented.
  - (b) The temporary use is not located within twenty-five (25) feet of any public right-of-way.
  - (c) Adequate parking, ingress and egress are provided on site.
- (4) No temporary use may last more than forty-five (45) consecutive days.
- (5) No more than two (2) temporary use permits may be obtained per parcel per year.
- (6) *Food truck* means a mobile conveyance equipped with facilities necessary to safely store and/or prepare food and/or drink for consumption, from which customers may directly purchase food and/or drink. Temporary use permits issued by the city manager or his designee for a temporary food truck use shall not count toward the limit of two (2) temporary use permits per parcel per year as set out in subsection (5). Food trucks approved by the city manager or his designee may be located within twenty-five (25) feet of a public right of way if approved for such location by the city manager or his designee.

( [Ord. No. 390, § 1, 9-1-15](#) )

Sec. 314. - Powers of the mayor and city council with respect to zoning appeals.

The mayor and city council shall have the following powers with respect to zoning appeals:

- (a) Administer oaths and compel the attendance of witnesses by subpoena.
- (b) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by city staff in the interpretation or enforcement of this zoning ordinance.
- (c) In exercising the above powers, the mayor and city council may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination from which the appeal is taken, and to that end, may issue or direct the issuance of a building or occupancy permit.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 315. - Appeals from final decisions of the mayor and city council.

Any person with a special interest in a zoning decision that is substantially aggrieved by any final decision of the mayor and city council may take an appeal to the superior court. Such an appeal to the superior court shall be by writ of certiorari and shall be filed within thirty (30) days from the date of the final decision of the mayor and city council. Upon failure to file the appeal within thirty (30) days, the decision of the mayor and city council shall be final.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Secs. 316—318. - Reserved.

Sec. 319. - Construction and use consistency with application, plans, and permit.

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the building inspector authorize only the use, arrangement, and construction set forth in such approved plans and applications. Any other use, arrangement, or construction which varies from approved plans shall be deemed a violation of this ordinance.

All departments, inspectors and public employees of the City of Clarkston which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same shall be in conflict with the provisions of this ordinance.

Sec. 320. - Time limits and action for proposed plans not implemented after zoning action.

Upon a property owner's request for the issuance of a building or occupancy permit, the building inspector or other issuing person shall not issue to the property owner any building or occupancy permits if any of the following occurs.

- (a) In such cases where preliminary land subdivision plats have not been approved within twelve (12) months since the application date; or when building or occupancy permits have not been issued within the twelve (12) months since the plat was approved, it shall be deemed that the subject property is not suited for the purposes proposed in the rezoning application, and the zoning classification of the subject property shall revert to the classification status it held prior to the initiation of the proposed rezoning. To ensure compliance, no permits shall be issued without confirmation of the original zoning action date.

- (b) If construction or utilization of the land in accordance with approved preliminary land subdivision plats or building or occupancy permits is not well under way within the succeeding twelve (12) months, it shall be deemed that the subject property is not suited for the purposes proposed in the rezoning application, and the zoning classification of the subject property shall revert to the classification status it held prior to the initiation of the proposed rezoning. To ensure compliance, no permits shall be issued without confirmation of the original zoning action date. The mayor and city council shall also cancel the building or occupancy permits and declare them null and void.

Sec. 321. - Future development map amendments.

The future development map of the comprehensive plan may be amended by the mayor and city council. Future development map amendment applications shall be filed with the city clerk. All filed applications shall be reviewed in accordance with the procedures established in sections 304(a) and 304(b) of this article. Amendments to the future development map shall meet the following procedures and criteria:

- (a) *Initiation of amendments.* Future development map amendments may be initiated by one of the following:
  - (1) The mayor and city council may initiate amendments to the future development map. The requirements for applications in section 302 shall not apply to amendments initiated by the mayor and city council.
  - (2) Any person, firm, corporation or agency may initiate applications to amend the future development map, provided that said person, firm, corporation or agency is the owner or the authorized agent of the owner of all of the property involved.
- (b) *Applications to amend the future development map.*
  - (1) Each application to amend the future development map shall be filed with the city clerk and shall include the following information:
    - a. A legal description of the tract(s) that are the subject of the application.
    - b. The name and address of the owner(s) of the tract and agent(s), if any.
    - c. Whenever the applicant is not the property owner, the owner shall certify by notarized signature that (s)he has given

authority to the applicant to file the application. When properties have more than one (1) owner, the notarized signature of all property owners shall be required.

- d. An application fee established by the city.
  - e. The land use classification for the tract(s), as shown on the future development map and when necessary, the present and proposed zoning classification.
  - f. A written analysis of the impact of the proposed amendment with respect to the criteria established in subsection (d) of this section 321.
  - g. Other materials reasonably required by the city necessary to the analysis of the application.
- (c) *Review.* With respect to each application for a future development map amendment, the review commissions shall investigate and make a recommendation based on the following criteria:
- (1) Whether the future development map amendment proposal is compatible with the surrounding future land uses as identified in the future development map.
  - (2) Whether the future development map amendment proposal can be adequately served by existing transportation facilities and other infrastructure, such as schools, water and sewer.
  - (3) Whether the future development map amendment proposal negatively impacts natural and historic resources identified by the city.
  - (4) Whether the future development map amendment proposal is in the best interest of the city and the public good and whether the proposal protects the health and welfare of its citizens.
  - (5) Whether the property to be affected by the future development map amendment proposal has a reasonable economic use as currently designated on the future development map.
  - (6) Whether the future development map proposal meets the policies and intent established in the comprehensive plan.
- (d) *Re-submittal of land use amendment application.* An application for an amendment affecting the same property shall not be submitted more often than once every six (6) months; however, this provision

shall not apply to those properties affected by an amendment filed by the mayor and city council or by the city clerk.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 322. - Penalties for violation.

- (a) Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one hundred eighty (180) days or both for each offense. Each day such violation continues shall constitute a separate offense.
- (b) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- (c) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 375, § 3(Attach.), 10-1-13)

Sec. 323. - Remedies.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure or land is used in violation of this ordinance, the mayor or council of Clarkston, the building inspector, or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to stop the violation in the case of such building, structure or land use.

(Ord. No. 375, § 3(Attach.), 10-1-13)

ARTICLE IV. - DEFINITIONS<sup>[5]</sup>

Except as specifically defined herein, all words used in this ordinance have their customary dictionary definitions. For the purposes of this ordinance certain words or terms used herein shall be defined as follows:

- Words used in the singular include the plural and words used in the plural include the singular.
- Words used in the present tense include the future tense.

- The word "building" includes the word "structure".
- The word "erected" includes the words "constructed" "moved" "located" or "relocated".
- The word "lot" includes the words "plot" or "parcel".
- The word "map" or "zoning map" means the zoning map of Clarkston, Georgia.
- The word, "person" includes the words "individuals", "firms", "partnerships", "corporations", "associations", "governmental bodies" and all other legal entities.
- The word "shall" is always mandatory and never discretionary.
- The words "used" or "occupied" include the words "intended, arranged or designed to be used or occupied".

*Accessory building:* A structure that is incidental and subordinate to the principal structure, located on the same lot, and operated or maintained under the same ownership as the principal structure.

*Accessory Dwelling:* an accessory structure constructed and/or used as a residential dwelling place in compliance with Section 603 of the Zoning Code.

*Accessory use:* Incidental and subordinate to the principal use in a in a permitted land use.

*Agriculture:* The production, rearing or storage of crops and/or livestock for sale, lease or personal use, or lands devoted to a soil conservation or forestry management program.

*Alley:* A public street which ordinarily affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

*Alteration:* A change or rearrangement in the exterior walls or structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing the height, or the moving of said building or structure from one location or position to another. In addition to the foregoing, any building or structure shall be considered as being altered whenever it is repaired, renovated, remodeled, or rebuilt at a cost in excess of fifty (50) percent of its fair sales value immediately prior to the beginning of such repairs, renovation, remodeling, or rebuilding.

*Automobile repair center or garage:* General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers such as collision

service, body repair and frame straightening; painting and upholstering; vehicle steam cleaning; and undercoating. For vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any goods, articles or merchandise. Such engines, motor vehicles, trailers, or parts thereof may remain in an inoperable condition for a maximum of thirty (30) days.

*Automobile service center:* Any building, structure or land used for the dispensing, sale, any automobile fuels, oils, or accessories and where general automotive servicing is performed, such as replacement of mufflers, shocks and tires and motor tune-ups, as distinguished from major automotive repairs.

*Automobile service station (filling station):* A building or structure used for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation or minor services, customarily incidental thereto; facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building.

*Automobile storage yard or used car lot:* A lot or group of continuous lots used for the storage, display or sale of operable automobiles where no repair work is done. This would include secondhand car lots.

*Automobile sales:* The use of any building, land area or other premise for the display and sale of new or used motor vehicles, and including any warranty repair work or other repair service; provided, however, that such definition shall not include the sale by an individual of motor vehicles acquired for such individual's own use and actually so used.

*Automobile storage yard and wrecker service:* An establishment used for the short-term storage of damaged or confiscated vehicles.

*Basement (daylight):* A story partly underground and having at least one-half ( $\frac{1}{2}$ ) of its height above the average level of the adjoining ground. A basement shall be counted as one-half ( $\frac{1}{2}$ ) story for the purpose of height measurement if used for dwelling or business purposes.

*Boarding house:* A dwelling in which meals or lodging or both are furnished for compensation to more than two (2) but not more than ten (10) non-transient persons.

*Buffer:* An undisturbed area that shall remain in its natural state and enhanced with additional landscaping in order to provide separation and screening for adjacent properties and adjacent rights-of-way.



*Buffer area:* A strip of land established to protect 1 type of land use from another with which it is incompatible containing a continuous visual screening of vegetation and fencing.

*Buffer, landscape:* An area using transitional screening elements such as fences, walls, and/or landscape plantings to separate and partially screen adjacent properties and adjacent rights-of-way.

*Building:* Any structure built for support, shelter or enclosure for any occupancy or storage which has a roof and which is designed for the housing or enclosure of persons, animals or property of any kind. *Building coverage:* The horizontal area measured from the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

*Building facade:* The portion of any exterior elevation of a building extended from grade to the top of the parapet wall or eaves and the entire width of the building elevation fronting a public street, excluding alleys and lanes, and which may also be referred to as the building face.

*Building height, residential:* For all single-family residential detached buildings and structures, building heights shall be the vertical distance measured from the highest point of the front door threshold of the existing or previously existing house on the property, to the highest point of the roof. See "threshold, front door" definition.

*Building height, non-residential:* For all buildings and structures not classified as residential, building heights shall be the vertical distance measured from the finished front yard grade to the highest point of the roof.

*Building line or front yard set back line:* A line, usually fixed parallel to the lot line, beyond which a building, or any projection thereof, cannot extend, excluding uncovered steps, terraces, stoops or similar fixtures.

*Canopy:* A roof-like covering that projects from the wall of a building, or is freestanding, for the purpose of shielding from the elements.

*Canopy, gas station:* A permanent structure above gasoline pumps supported independently or partially by other means, such as via a connection to the main building at the gas station location.

*Carport or garage, private:* An accessory building or a portion of a main building used for the parking or storage of automobiles of the occupants of main building. A carport would be considered a private garage.

*Car wash:* A building, or portion thereof, where automobiles are washed by mechanical or high pressure water devices.

- (1) *Automatic car wash* means a car wash where the labor is not supplied by the patron.
- (2) *Coin operated car wash* means a car wash where the patron supplies the labor.

*Child Care Learning Center:* operated by an individual, institution, corporation, society, agency, organization, or group that provides care for children aged birth through eighteen years for less than twenty four hours per day, and, when applicable, meets City of Clarkston, DeKalb County and State of Georgia, Department of Early Care and Learning, regulations.

*City:* The City of Clarkston, Georgia.

*City council:* The City Council of Clarkston, Georgia.

*Club:* Buildings and facilities owned and operated by a corporation or association of persons for social or recreational purposes, but not operated primarily for profit or to render a service which is customarily carried on as a business.

*Comprehensive plan:* A policy guideline including the future development map adopted by the mayor and council representing issues, goals, policies, and actions for the growth and development of the city. While adopted by the mayor and council, it does not serve as a development ordinance nor does it carry the force of law, but rather serves as a guide to desired and/or continued growth and development citywide.

*Conditional use:* A use permitted in a particular zoning district only upon showing that such use would not be detrimental to public health, safety or general welfare. Such uses may be required to meet additional standards and may be controlled as to the number, area and spacing from other uses and each other.

*Condominium:* Individual ownership units in a multi-family residential, commercial, and/or industrial structure(s), combined with joint ownership of common areas and facilities.

*Convenience store:* Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than two thousand (2,000) square feet.

*Cottage housing development:* Planned unit developments comprised of cottage housing residential units, organized in clusters. Cottage housing is a style of small lot/home development designed for single-family dwelling, and

is restricted in square footage, density, and architectural standards as defined within section 904. CHDs are characterized by a shared central open space.

*Customary home occupations:* Any occupation or activity carried on by a member of the family residing on the premises, in connection with which there is no group instruction, assembly or activity and no sign is used or no display that will indicate from the exterior that the building is being utilized in any part for any purpose other than that of a dwelling; there is no commodity stored on the premises or held for sale to the public from the premises; no person is employed other than a member of the immediate family residing on the premises and no mechanical or electronic equipment is used for commercial purposes.

*Density:* The number of families, individuals, dwelling units, or housing structures per unit of land. The standard for density shall be the gross density which includes all the land within the boundaries of the area excluding floodplains, wetlands and standing bodies of water.

*Developed floor area:* The enclosed areas of a building that are heated or cooled.

*Development:* The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.

*Driveway:* A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

*Dwelling:* A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple family dwellings, but not including hotels, boarding and lodging houses.

*Dwelling, multiple family:* A building designed to be occupied by three (3) or more families living independently of each other, and doing their cooking in the said building.

*Dwelling, single-family:* A building containing but one (1) housekeeping unit designed to be occupied by not more than one (1) family.

*Dwelling, two-family (duplex):* A building containing not more than two (2) kitchens, designed to be occupied by not more than two (2) families living independently of each other.

*Dwelling unit:* One (1) or more rooms designed for the occupancy, cooking, and sleeping of one (1) or more persons living as a family.

*Early Learning Program:* a private residence, apartment, apartment community center or other building in which a non-profit entity operates for free an early learning and family support program for children ages 3 to 18 years of age who are not residents in the same private residence, which operates fewer than 24 hours per day and, when applicable, meets City of Clarkston, DeKalb County and State of Georgia, Department of Early Care and Learning, regulations.

*Easement:* An incorporeal interest in land owned and legally titled by another, permitting its limited use or enjoyment on, over, or under said land without actual occupancy.

*Erect:* To build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of wall signs.

*Erosion:* The detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice and gravity.

*Family:* One (1) or more related persons or four (4) or less unrelated persons occupying a dwelling and living as a single housekeeping unit. The term "family" shall not be construed to mean fraternity, sorority, club, student center, group care homes, foster homes and is to be distinguished from persons occupying a boarding house, rooming house, hotel, or apartment unit as herein defined.

*Family Child Care Learning Home:* a private residence or apartment in which a business is operated by any person for pay that provides for supervision and care for at least 3 but not more than 6 children from birth to thirteen years of age who are not residents in the same private residence, which operates fewer than 24 hours per day and must be registered with the State of Georgia and comply with City of Clarkston and Georgia Department of Early Care and Learning regulations.

*Fence:* An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

*Floodplain:* That area within the intermediate regional flood contour elevations subject to periodic flooding as designated by the DeKalb County Roads and Bridges Director based upon the U.S. Corps of Engineers' Floodplain Information Reports and other federal, state or county hydraulic studies.

*Floor area:* The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, excluding attached garages, porches, balconies and unfinished basements.

*Floor area ratio (FAR):* A mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located as:  $\text{Floor area}/\text{Lot area} = \text{Floor area ratio}$ .

*Frontage:* The length of any property line of a premises which abuts public rights-of-way.

*Future development map:* Adopted as part of the comprehensive plan, the future development map establishes future development areas in the City of Clarkston. The intent for future land use and development in each area is established by supporting text in the comprehensive plan.

*Garage apartment:* An accessory or subordinate building, not a part of or attached to the main building where a portion thereof contains living facilities for not more than one (1) family and the enclosed space for at least one (1) automobile is attached to such living quarters.

*Garage, commercial:* A commercial structure or any portion thereof in which one (1) or more automobiles are housed, or kept or repaired; not including exhibition or showrooms or storage of cars for sale.

*Garage, private residential:* A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the residents thereof, and which is not a separate commercial enterprise available to the general public.

*Grade:* An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

*Gross leasable area (GLA):* The total gross floor area within building(s) which is occupied exclusively by individual tenants and upon which the tenants pay rent.

*Guest cottage:* Living quarters within a detached accessory building located on the same premises as the main building to be used exclusively for housing members of the family occupying the main building and their non-paying guests; such quarters having no kitchen facilities and not to be rented or otherwise used as a separate dwelling.

*Hotel or motel:* Any building or group of buildings containing principally sleeping rooms in which transient guests are lodged with or without meals with payment on a daily or weekly basis.

*Junkyard:* Property used for indoor or outdoor storage, keeping or abandonment, whether or not for sale or resale, of junk, including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

*Landfill:* See "sanitary landfill."

*Landscaping:* The installation and permanent maintenance of trees, shrubs, ground covers, mulch, grass and other planting materials.

*Landscape strip:* A ground area installed with landscape materials such as street trees, shrubs, ground cover, etc. (Paving material such as gravel and concrete pavers may be used in combination with plant material.)

*Laundry, self-service:* A business rendering a retail service by renting to the individual customer equipment for the washing, drying and otherwise processing laundry, with such equipment to be serviced and its use and operation supervised by the management, and does not include processing the laundry by the management on behalf of the customer.

*LCI Study:* Refers to the City of Clarkston Livable Centers Initiative Study (2004).

*Livestock:* Any animal with hooves, including but not limited to, cattle, horses, goats, mules, pigs, and sheep.

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

*Lot:* A portion or parcel of land devoted to a common use or occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

*Corner lot:* A lot fronting on two (2) streets or their intersection, provided that the interior angle formed by the intersection is less than one hundred thirty-five (135) degrees. When the frontage on one (1) street exceeds the frontage on the other, the one with the least frontage shall be deemed the front of the lot.

*Interior lot:* A lot other than a corner lot.

*Through lot:* An "interior lot" having frontage on two (2) parallel or approximately parallel streets.

*Lot depth:* The distance measured in a mean direction of the side lines of the lot from the midpoint of the front lot line to the midpoint of the opposite rear line of the lot.

*Lot of record:* A part of land subdivision, the map of which has been recorded in the office of the clerk of DeKalb County, Georgia.

*Lot width:* The horizontal distance between the side lines of a lot measured at the front building line.

*Modular home:* A modular home is a factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure to be used for residential purposes.

*Mixed-use development:* Development projects that incorporate new residential and non-residential (commercial, community facility and light industrial) uses and are permitted as-of-right in certain zoning districts.

*Official zoning map:* A legally adopted map that conclusively shows the location and boundaries of zoned districts.

*Open space:* An open, unoccupied, unobstructed space that provides a usable amenity area on the same lot as a building. Required yards and requirements for sidewalk zones and landscape zones which are constructed on private property may be counted towards this requirement. Open space may also include balconies, roof-top terraces, front yards, planted areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property. Open space shall not include areas devoted to public or private vehicular access.

*Outdoor storage:* The location of any goods, wares, merchandise, commodities, junk, debris or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

*Parking lot:* An area or plot of ground used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

*Permitted use:* Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

*Pervious paving:* A surface that allows water to pass through voids in or between paving materials while providing a stable, load bearing surface for vehicles.

*Planned unit development (PUD):* A provision that allows more flexibility to development projects that incorporate two (2) or more buildings on a tract or several tracts of land than would otherwise be allowed by the underlying zoning district regulations. The following types of PUDs are allowed by this ordinance: Planned residential developments; cottage housing developments, and planned mixed-use developments; planned commercial development.

*Planning and zoning board:* Refers to the planning and zoning board of the City of Clarkston as described in Chapter 15 of the Clarkston Code of Ordinances.

*Poultry.* Any domesticated fowl whether kept for the production of eggs, meat, feathers, or otherwise.

*Private deed restrictions or covenants:* Private deed restrictions or covenants are imposed on land by private land owners. They bind and restrict the land in the hands of present owners and subsequent purchasers. They are enforced only by the land owners involved and not by the city or other public agency.

*Restaurant, carry-out:* A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building.

*Restaurant, dine-in:* A retail establishment where food and beverages are offered for sale to the public for either on-site consumption or for carry out to consume off-site.

*Restaurant, drive-through:* Any restaurant where all or a portion of the business activity is dedicated serving customers by way of a drive-through window that allows customers to be served while inside an automobile.

*Retail services:* Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.



*Retail trade:* Establishments engaged in selling goods or merchandise to the general public and for personal or household consumption and rendering services incidental to the sale of such.

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

*Sanitary landfill:* An area of land utilized for sanitary disposal by filling with solid waste refuse and garbage, then covering with layers of earth.

*Setback:* The required space between a property line and a building or specified structure.

*Sidewalk clear zone:* An unobstructed walkway with a minimum width of seven (7) feet and hardscaped located between the building face and landscape zone.

*Story:* That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above. Attic or daylight basement space is construed as one-half ( $\frac{1}{2}$ ) story. A fully underground basement is not a story.

*Street:* A thoroughfare that affords the principal means of access to abutting property.

*Street grade:* The establishment grade of the front street or other higher street upon which the lot abuts at the midpoint of the frontage of the plot thereon.

*Street line or highway margin:* The dividing line between a lot, tract or plot of land and a contiguous street, road or highway right-of-way.

*Structure:* Anything constructed or erected on the ground or attached to something on the ground.

*Structural alterations:* Any change, except for repair or replacement, in the supporting members of a building such as load-bearing walls, columns, beams or girders, floor joists or roof joists.

*Structural trim:* The molding, battens, cappings, nailing strips, latticing, and platforms which are attached to any structure, including signs.

*Subdivision:* All divisions of a tract or parcel of for the purpose (whether immediate or future) of sale, lease, legacy or building development; it

includes all divisions of land involving a new street to which the public has access (whether private or public) or change in an existing street, and includes re-subdivision. Subdivision is also the process (and the result) of dividing a parcel of raw land into smaller buildable sites, blocks, streets, open space and public areas and the designation of the location of utilities and other improvements.

*Temporary housing:* Any tent, trailer, or other structure used for human shelter which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utilities systems and which is not on the same premises for more than thirty (30) consecutive days.

*Threshold, front door:* Establishes location of new residential construction for purposes of controlling proportion of mass and building height to lot size.

*Variance:* A grant of relief that modifies the strict dimensional or numerical requirements of this ordinance to permit construction in a manner that would otherwise be prohibited by this Code. A variance from the terms of this ordinance may be granted per criteria established here within and provided that the variance not be contrary to the public interest.

*Yard:* An open space on a lot situated between the principal building or use on the lot and a lot line and unoccupied by any structure except as otherwise provided herein.

*Yard, front:* An open, unoccupied space on the same lot with a principal building or use, extending the full width of the lot and located between the street line and the front line of the building projected to the side lines of the lot. In the case of corners, all sides of the building facing the street are considered the front.

*Yard, rear:* An open space not including parking on the same lot with a principal building or use, unoccupied except by an accessory building or use, extending the full width of the lot and located between the rear line of the lot and the rear line of the building or use projected to the side lines of the lot.

*Yard, side:* An open, unoccupied space on the same lot with a principal building or use, located between the building or use 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.

(Ord. No. 375, § 4(Attach.), 10-1-13; [Ord. No. 396, § 24, 7-5-16](#) )

Footnotes:

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**Editor's note**— Ord. No. 375, § 4(Attach.) repealed former Art. IV in its entirety and enacted new provisions as herein set out. Former Art. IV pertained to similar subject matter and derived from Ord. No. 325, § 1, 4-23-2007; Ord. No. 341, § 1, 2-2-10; Ord. No. 367, § 1, 8-9-12.

## ARTICLE V. - PROVISION FOR OFFICIAL ZONING MAP AND THE ESTABLISHMENT OF DISTRICTS<sup>6</sup>

Footnotes:

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**Editor's note**— Ord. No. 375, § 5(Attach.) repealed former Art. V, §§ 501—508, in its entirety and enacted new provisions as herein set out. Former Art. V pertained to similar subject matter and derived Ord. No. 325, § 1, adopted April 23, 2007.

Sec. 501. - Official zoning map.

The City of Clarkston is hereby divided into zoning districts, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this zoning ordinance.

The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in the Clarkston zoning ordinance" together with the date of adoption of this zoning ordinance.

(Ord. No. 375, § 5(Attach.), 10-1-13)

Sec. 502. - Reserved.

Sec. 503. - Replacement of official zoning map.

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the mayor and city council may by zoning ordinance adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map, and shall be identified by the signature of the mayor attested by the city clerk and bearing the seal of the city under the following words: "This is to certify that this official zoning map

supersedes and replaces the official zoning map adopted the date of (date) \_\_\_\_\_ as part of the Clarkston zoning ordinance."

Unless the previous official zoning map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.

(Ord. No. 375, § 5(Attach.), 10-1-13)

Sec. 504. - Reserved.

Sec. 505. - Establishment of zoning districts.

For the purposes of this zoning ordinance, the city is divided into zoning districts designated as follows:

<b>RESIDENTIAL, SINGLE-FAMILY</b>	
NR-1	Low-Density Neighborhood Residential District
NR-2	Medium-Density Neighborhood Residential District
NR-3	High-Density Neighborhood Residential District
<b>MULTI-USE</b>	
NR-CD	Neighborhood Residential-Community Development District
RC	Residential Commercial District
<b>COMMERCIAL</b>	
NC-1	Low-Density Neighborhood Commercial District
NC-2	Moderate-Density Neighborhood Commercial District
TC	Town Center District
I	Light Industrial District

(Ord. No. 375, § 5(Attach.), 10-1-13)

Sec. 506. - Conversion of previous zoning district designations.

<b>PREVIOUS ZONING DISTRICT DESIGNATION</b>	<b>CURRENT DESIGNATION</b>
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R-1	NR-1, NR-2, NR-3
R1-C	NR-1
RM	NR-CD
ROI	RC, NC-1
OI	RC, NC-1, NC-2, TC
C-1	RC, NC-1, TC, I
C-2	NC-1, TC, I
C-3	NC-1, I
M-1	NC-2, TC

(Ord. No. 375, § 5(Attach.), 10-1-13)

Sec. 507. - Reserved.

Sec. 508. - Future development areas and associated zoning districts.

Zoning districts that are compatible and acceptable within the future development areas as set forth in the City of Clarkston comprehensive plan shall be as follows:

Comprehensive Plan Character Areas	Compatible Zoning Districts
Suburban Area	NR-1, NR-2
Neighborhood Redevelopment Area	NR-3, I
Multi-Family Redevelopment	NR-CD
Mixed-Use	NC-1, NC-2, RC
Civic-Institutional	NC-1, RC
Central Business District	TC, NC-2
Commercial	NC-1
Parks/Open Space	NR-1

(Ord. No. 375, § 5(Attach.), 10-1-13)

## ARTICLE VI. - GENERAL PROVISIONS

### Sec. 601. - General provisions.

The regulations set by this zoning ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

No building, structure, land, or open space shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, re-constructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

### Sec. 602. - ADA compliance.

In addition to the regulations of this zoning ordinance, the Americans with Disabilities Act (ADA) Accessibility Guidelines for buildings and facilities shall also apply.

### Sec. 603. - Accessory uses.

Accessory uses shall be permitted as provided in this section.

- (a) Accessory uses for commercial development shall include those normally appurtenant to such development, as provided for in other sections of this zoning ordinance.
- (b) Any accessory use normally appurtenant to a permitted use shall be allowed provided such use shall conform with all performance standards set forth for that district.
- (c) Such structures and uses shall be located on the same lot as the principal building to which they are accessory.
- (d) Such structures and uses shall not be permitted in a required front or side yard.
- (e) Accessory uses and structures such as garages, greenhouses or workshops, shall not be rented or occupied for gain.
- (f) No accessory building shall be constructed upon a lot until construction of the principal building has commenced.
- (g) Where a corner lot adjoins in the rear a lot in a residential district, no accessory building shall be located closer to the side street right-of-way line than the principal building or closer than twenty-five (25) feet to the rear property line.

- (h) No garage or other accessory building shall be located closer than three (3) feet to a side or rear lot line.
- (i) When an accessory building is attached to the principal building by breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.
- (j) Residential sheds, workshops, greenhouses or other such accessory structures shall be located in a rear yard, are limited to one (1) story and shall not exceed one hundred and twenty (120) square feet in size.
- (k) In all zoning districts, no accessory use shall be permitted in public rights-of-way except mailboxes, sidewalks, driveways, light posts, and decorative landscaping with the permission of the public works director.
- (l) Accessory use swimming pools having a minimum depth of two (2) feet:
  - (1) Shall be permitted only upon written approval of the county health department to indicate compliance with applicable health department swimming pool regulations;
  - (2) Shall be located a minimum of ten (10) feet from any property line; and
  - (3) Shall be completely enclosed with an adequate protective fence of not less than six (6) feet in height.
  - (4) Shall be enclosed by protective fence with appropriate closure.

Sec. 604. – Child, Adult day care and personal care uses.

Daycare nurseries, child care centers, adult day care centers, kindergartens; and nursing, convalescent, or rest homes not used primarily for the treatment of contagious diseases, alcoholism, drug addiction, or mental illness shall meet all applicable state requirements and shall receive all necessary county board of health and state fire marshal approvals prior to issuance of a permit for construction and operation. Day nurseries and kindergartens shall have the following additional criteria:

- (a) The lot on which such uses are established shall have access on a major or minor thoroughfare;
- (b) There shall be not less than thirty (30) square feet of indoor play area for each child at maximum enrollment, and not less than one hundred

(100) square feet per child of outdoor play area at maximum enrollment;

(c) The outdoor play area shall be enclosed by a fence not less than four (4) feet in height; and

(d) A circular drive shall be provided for off-street loading and unloading of children.

Sec. 605. - Home occupations.

(a) It is the intent and purpose of this section to provide for certain types of restricted occupational uses within residential zoning districts. Such uses are restricted to those which:

(1) Are incidental to the use of the premises as a residence;

(2) Are compatible with residential uses; and

(3) Do not detract from the residential character of the neighborhood.

(b) In all residential zoning districts, any building used for residential occupancy may conduct a home occupation use provided that:

(1) The primary use of the unit is a dwelling;

(2) The following standards are complied with in full at all times:

a. Such use shall be conducted entirely within the dwelling unit, and the number of persons employed shall not exceed three (3), as long as one such person is a resident;

b. No mechanical or electrical equipment is to be utilized except that which is necessarily, customarily, or ordinarily used for household or leisure purposes;

c. No equipment that interferes with radio and/or television reception shall be allowed.

d. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials shall be used or stored on the premises;

e. There shall be no outside operations, storage, or display of materials or products;

f. No accessory buildings shall be used in connection with the home occupation.

g. No alteration of the residential appearance of the premises occurs, including the creation of a separate entrance to the



dwelling or utilization of an existing entrance exclusively for the business;

- h. There shall be no exterior evidence of the home occupation;
- i. No commodity shall be stocked or sold on the premises to the general public;
- j. No process shall be used which is hazardous to public health, safety, or welfare;
- k. Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence and shall, under no circumstance, exceed more than eight (8) a day and not more than two (2) manufacturer or wholesaler direct deliveries of products or materials per week;
- l. No on-street parking associated with the business shall be permitted;
- m. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation;
- n. The home occupation shall be restricted to fifty (50) percent of the dwelling and shall not exceed four hundred and fifty (450) square feet of floor area. Said home occupation use shall be clearly secondary to the use of the dwelling for dwelling purposes; and

(c) In all non-residential zoning districts, any building used for residential occupancy may conduct business provided that:

- (1) The home occupation shall not involve more than three (3) employees on site who do not live in the dwelling unit;
- (2) A home occupation may include the office of a licensed/certified health service practitioner, including a surgeon, dentist, dental surgeon, osteopathic physician, psychologist, or other medical practitioner licensed by the state, who receives and treats patients on the premises;
- (3) A home occupation may include the office of a person engaged in a profession, including a lawyer, an accountant, and auditor, an engineer, an architect, a real estate agent, or another profession similar in character, who receives and consults with clients on the premises;

(4) A home occupation may include child or adult day care, as permitted by this zoning code; and

(5) A home occupation may have a single sign indicating the name of the business mounted as a wall sign on the dwelling, secured to the primary residential use, and having an area of no more than two (2) square feet.

Sec. 606. - Keeping of poultry and livestock.

(a) The keeping of livestock or poultry within the city shall be prohibited on any lot with an area of less than three (3) acres, except as otherwise set forth in this Appendix A.

(b) Every poultry or livestock kept within the city must be contained by fence, corral, coop, pen or similar means sufficient to prevent said poultry or livestock from leaving the lot upon which they are kept.

(c) Any structure, pen, corral or other building appurtenant to the keeping and raising of livestock must be located a minimum of two hundred (200) feet from any property line.

(d) The keeping of livestock or poultry within the City shall be in compliance with all applicable regulations promulgated by the DeKalb County Health Department.

(e) The non-commercial keeping of poultry is permitted on lots with area less than three (3) acres pursuant to Article XIII or this Appendix A.

(Ord. No. 367, § 2, 8-9-12)

Sec. 607. - Functional classification of streets.

For purposes of this zoning ordinance, all of the streets, roads and highways in the City of Clarkston are classified according to the Georgia Department of Transportation.

Sec. 608. - Lot reduction prohibited.

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit or other requirements of this zoning ordinance are not maintained. Yards or lots created after the effective date of this zoning ordinance shall meet at least the minimum requirements established by this zoning ordinance. This section shall not apply when a portion of a lot is acquired for a public purpose.

Sec. 609. - One principal residential building per lot.

Only one (1) permitted principal use, and its authorized accessory uses(s), shall be authorized per lot, unless multiple or mixed uses are specifically authorized on the same lot elsewhere in this zoning ordinance.

Sec. 610. - Prohibited uses.

The following uses of land and buildings are incompatible with existing and future development within the city limits of the City of Clarkston are prohibited in all districts. In addition, neither the mayor nor city council shall have the authority to grant variances or special exceptions for these prohibited uses.

- (a) Packing, slaughtering, eviscerating and skinning;
- (b) Poultry killing, plucking and dressing;
- (c) Rendering of byproducts of slaughtering and killing animals or poultry;
- (d) Yards for the sale, transfer or temporary holding of livestock;
- (e) Use of equipment which causes off-site radio or television interference;
- (f) Landfills and junkyards; and
- (g) Outside storage on any property that is not customarily incidental and subordinate to the principal building or is not otherwise permitted by Article X.

Sec. 611. - Removal of soil.

No soil, mineral, or similar material may be removed from any lot except that which is purely incidental to construction of a building or structure. No excavation on any lot exceeding one (1) foot in depth, except for the purpose of locating poles, or underground service connections of public utilities shall be permitted unless a building permit is first secured.

Sec. 612. - Requirements for moving a building.

No dwelling unit or other permanent structure shall be relocated within the city unless, when relocated, it meets all requirements of this zoning ordinance and other City Code requirements, and prior to the transportation of the structure, the relocation has been approved by the City of Clarkston.

Sec. 613. - Sight obscuring container enclosures.

Trash and recycling dumpsters must be enclosed on three (3) sides by a decorative wall or opaque fence. The height shall be equal to or higher than the trash or recycling dumpster. Pursuant to section 5-44 of this Code of

Ordinances, temporary construction trash and recycling dumpsters which are not enclosed shall be permitted up until such time as the certificate of occupancy is granted.

Sec. 614. - Street frontage requirement.

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

In the event a land locked lot exists, as of the effective date of this zoning ordinance, the property owner shall be entitled to only one (1) building permit, provided;

- (a) No other principal building exists or is being constructed on said property;
- (b) No other valid building permit has been issued prior to the effective date of this zoning ordinance and is currently valid;
- (c) The property was and continues to be under single ownership since the effective date of this zoning ordinance;
- (d) The property owner has acquired a twenty (20) foot access easement to a publicly maintained street, and said easement has been duly recorded and made part of the property deed; and
- (e) In the event said property is divided, no additional permits will be issued.

Sec. 615. - Substandard lots of record.

Any lot of record existing at the time of adoption or amendment of this zoning ordinance, which has an area or width which is less than required by this zoning ordinance, shall be subject to the following exceptions and modifications.

- (a) Adjoining lots. When two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of application, and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be replatted so as to create one (1) or more lots which conform to the minimum frontage requirements of the district. This shall not apply to lots within a development approved prior to the effective date of this ordinance.

- (b) Lots not meeting minimum lot size requirements. When a lot has an area or frontage which does not conform to the requirements of the district in which it is located, but was a lot of record at the effective date of this zoning ordinance, such lot may be used for any use allowed in the zoning district in which it is located provided that all other requirements of this zoning ordinance are met. In no case shall any substandard lot in a residential district be subdivided.
- (c) In the case of such a lot, when it is not possible to provide the required side yards, the mayor and city council are hereby authorized to grant a variance reducing the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling, but in no case shall each of the side yards be less than five (5) feet in width.

Sec. 616. - Temporary buildings during construction.

A temporary building, buildings, or signs for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period.

Sec. 617. - Unsafe buildings.

Nothing in this zoning ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

Sec. 618. - Utilities location.

Electrical transformer stations, telephone exchanges and gas regulating stations, may be located in any zoning district subject to compliance with the following conditions and requirements and approval by the mayor and city council.

- (a) Such facilities shall be essential for service to the area in which located or for the proper functioning of the total utility system of which the same is a part.
- (b) Such facility shall be enclosed by a woven wire fence or similar opaque structure not less than ten feet (10) feet high.
- (c) Any building or structure, except an enclosing fence, shall be setback not less than fifty (50) feet from any property line, and shall meet all other applicable yard requirements of the district in which it is located.
- (d) Open spaces on the premises shall be suitably landscaped and maintained, and a planted buffer strip at least ten (10) feet wide shall be located along the side and rear property lines.

- (e) When such facilities are located within any residential district, the storage of vehicles and equipment on the premises shall be prohibited.
- (f) The area surrounding such a facility shall not be adversely affected by, and shall be protected from, noise, odor, glare, dust, fumes, gas, smoke, vibration, or any other obnoxious characteristics.

Sec. 619. - Vision clearance at intersections.

In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks, shall be permitted within twenty-five (25) feet of the intersection of rights-of-way lines of streets, highways and railroads. Streets without right-of-way shall be measured from the driving surface or curb at the intersection.

Sec. 620. - Yard and other spaces.

Any building, structure or use hereafter erected, altered or established shall comply with the yard space requirements of the district in which it is located. The required yard space for any building, structure, or use shall be contained on the same zoning lot as the building, structure or use and such required yard space shall fall entirely upon land in a district or districts in which the principal use is permitted.

No part of a yard or other open space or off-street parking or loading spaces required for any one building shall be included as a part of the yard or off-street parking or loading spaces required for another building, except as specifically provided for herein.

Sec. 621. - Residences, libraries, parks, and churches in proximity to businesses licensed to sell alcoholic beverages.

- (a) No public library or public park shall be a permitted use within any zoning district of the city if the public library or public park lies on the same side of the street and is within one hundred (100) yards of the place of entrance of any business licensed to sell spirituous liquors pursuant to the provisions of Article II, Chapter 3 of the Code of Ordinances of the City of Clarkston, Georgia;
- (b) No church, chapel, mortuary, or other place used primarily for religious services shall be a permitted use in any zoning district if such church, chapel, mortuary, or other place used primarily for religious services lies within one hundred (100) yards of the entrance of a place of business

licensed to sell spirituous liquors pursuant to the provisions of Article II, Chapter 3 of the Code of Ordinances of the City of Clarkston, Georgia.

- (c) For the purposes of this ordinance, measurement shall be from the closest property line of the public library, public park, church, chapel, or mortuary, or other place used for religious services and the point of entrance of the business licensed to sell spirituous liquors as measured along the most direct route.

Sec. 622. - Permitted encroachments upon required setbacks.

The following setback encroachments are permitted in all zoning districts:

- (a) Cornices, eaves, chimneys, porches, bay windows, or other similar architectural features may extend into the required front, side and rear yard provided such extensions do not exceed three (3) feet.
- (b) Steps and landings may extend into the required setbacks provided such extensions do not exceed ten (10) feet for the front yard, three (3) feet for the side yard and no closer than ten (10) feet from the property line in the rear yard.

(Ord. No. 375, § 6, 10-1-13)

Sec. 623. - Open space.

The following provisions shall apply to all "open space" required by the Clarkston Zoning Ordinance:

(a) *Open space requirement.*

- (1) Required yards and, sidewalk zones and landscape zones which are constructed on private property may be counted towards this requirement.
- (2) Open space may also include balconies, roof-top terraces, front yards, planted areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property.
- (3) Open space shall not include areas devoted to public or private vehicular access.
- (4) Where open space is held in common ownership, covenants or other legal arrangements shall specify ownership of the open space; method of and responsibility for maintenance; taxes and insurance; compulsory membership and assessment provisions;

and shall be incorporated into legal instruments sufficient to ensure that the open space criteria are maintained.

(b) *Open space implementation and maintenance.*

(1) *Implementation.* All open space including buffers, setbacks, sidewalk clear zones, sidewalk zones and open spaces shall be fully implemented prior to occupancy and if not completed, the occupancy permit shall not be issued.

(2) *Maintenance.* The owner shall provide adequate maintenance of the opens space improvements for a minimum of one (1) year from the date of issuance of the certificate of occupancy. The city shall inspect landscape improvements at least once during this period to ensure that the approved plan has been fully implemented and maintained. When a private property owner provides landscaping within the public right-of-way and the landscaping dies within a one-year period, such landscaping shall be replaced within a reasonable time not to exceed six (6) months for planting by the owner at the owner's sole expense.

(c) *Relocation of open space.* Relocation of minimum open space requirements: At the option of the property owner, up to fifty (50) percent of a development's required open space may be relocated to an offsite location provided:

(1) The city council has reviewed and approved the transfer request;

(2) A written agreement among all owners of record shall be provided with the request and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk.

(3) The receiving site(s) is designated an open space site in the comprehensive development plan;

(4) The receiving site(s) is located within three thousand (3,000) linear feet of the donating property;

(5) The receiving site(s) contains the required amount of open space; and

(6) Designated open space sites shall comply with the following:

a. The open space shall provide active or passive recreational amenities;



- b. The open space shall be no greater than twenty-four (24) inches above or below the adjacent public sidewalk for a minimum distance of fifteen (15) feet from the beginning of the adjacent sidewalk;
- c. The open space shall be visible and accessible from any point along ninety (90) percent of any adjacent sidewalk; and
- d. The open space shall permit and encourage pedestrians to walk on a minimum of eighty (80) percent of the surface of the parcel excluding fountains, pedestrian furniture, public art and similar elements.

(Ord. No. 375, § 7, 10-1-13)

## ARTICLE VII. - ZONING DISTRICT STANDARDS<sup>[7]</sup>

Footnotes:

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**Editor's note**— Ord. No. 375, § 8(Attach.) adopted Oct. 1, 2013, repealed former Art. VII, §§ 701—713 in its entirety and enacted new provisions as herein set out. Former Art. VII pertained to similar subject matter and derived from Ord. No. 325, § 1, 4-23-07; Ord. No. 331, §§ 1, 2, 8-5-08.

Sec. 701. - NR-1, low-density neighborhood residential district.

(a) *Purpose and intent*: The NR-1 zoning district is intended primarily for single-family detached residences and residentially-compatible requiring greater amounts of open space.

(b) *Permitted uses*:

(1) Single-family detached residential dwellings.

(2) Non-commercial horticulture and agriculture, outside of front-and-side-yard setbacks.

(3) Accessory structures and uses incidental to any legal permitted use, including home occupations.

(c) *Conditional uses*:

(1) Places of assembly, including religious institutions, provided:

a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.

- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(d) *Accessory structures/uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) No accessory structure shall be constructed upon a lot before the principal building.
- (4) Accessory structures greater than fifteen (15) feet in height, but less than thirty-five (35) feet in height, must be set back at least ten (10) feet from the side property line, and must be set back from the rear property line a distance of thirty (30) feet, or a distance equal to the height of the structure, whichever is less.
- (5) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.
- (6) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.
- (7) Heating and air conditioning units may encroach five (5) feet into the required rear or side setback.

(e) *Use limitations:*

- (1) All outdoor storage must be stored in a side or rear yard and screened from all streets and adjacent properties by a wood fence at least six (6) feet in height. The Planning and Development Director may approve the substitution of plantings for the required fence.
- (2) Unenclosed carports and front porches may not be used for storing any materials other than firewood or recyclable materials within a city approved container.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Max.)	0.4
Min. Residential Unit Size (finished, heated floor area)	1,000 sq. ft.
Building Coverage (Max, a % of lot area)	50%
Min. Open Space	N/A
Max. Building Height	35'
Min. Lot Size	10,000 sq. ft.
Min. Lot Width	75'
Minimum Front Yard Setback	30'
Minimum Side Yard Setback	10'
Minimum Rear Yard Setback	25'

(g) *Buffer requirements*: Not applicable in this district.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 702. - NR-2, medium-density neighborhood residential district.

(a) *Purpose and intent*: The NR-2 zoning district is intended for single-family detached residences on smaller lots where large amounts of open space are not required and/or desired.

(b) *Permitted uses*:

- (1) Single-family detached residential dwellings.
- (2) Non-commercial horticulture and agriculture, outside of front-and-side-yard setbacks.
- (3) Accessory structures and uses incidental to any legal permitted use, including home occupations.

(c) *Conditional uses*:

- (1) Places of assembly, including religious institutions, provided:
  - a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.

- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(d) *Accessory structures/uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) No accessory structure shall be constructed upon a lot before the principal building.
- (4) Accessory structures greater than fifteen (15) feet in height, but less than thirty-five (35) feet in height, must be set back at least ten (10) feet from the side property line, and must be set back from the rear property line a distance of thirty (30) feet, or a distance equal to the height of the structure, whichever is less.
- (5) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.
- (6) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.
- (7) Heating and air conditioning units may encroach five (5) feet into the required rear or side setback.

(e) *Use limitations:*

- (1) All outdoor storage must be stored in a side or rear yard and screened from all streets and adjacent properties by a wood fence at least six (6) feet in height. The Planning and Development Director may approve the substitution of plantings for the required fence.
- (2) Unenclosed carports and front porches may not be used for storing any materials other than firewood or recyclable materials within a city approved container.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Max.)	0.4
Min. Residential Unit Size (finished, heated floor area)	900 sq. ft.
Building Coverage (Max, a % of lot area)	50%
Min. Open Space	N/A
Max. Building Height	35'
Min. Lot Size	7,500 sq ft
Min. Lot Width	60'
Minimum Front Yard Setback	25'
Minimum Side Yard Setback	7'
Minimum Rear Yard Setback	20'

(g) *Buffer Requirements:* Not applicable in this district.

Sec. 703. - NR-3, high-density neighborhood residential district.

(a) *Purpose and intent:* The NR-3 zoning district is intended for single-family and multi-family residences at a greater density on smaller lots in order to provide for a variety of housing types, including townhomes, cluster homes and condominiums. This district may also serve as a transitional zone between light commercial/office uses and districts reserved for lower density single-family uses.

(b) *Permitted uses:*

(1) Single-family detached residential dwellings.

(2) Multi-family residential dwellings.

a. Duplexes.

b. Triplexes.

(3) Townhomes, provided:

a. For all developments containing eight (8) units or more, a mandatory homeowners association shall be created that will be responsible for the upkeep and maintenance of all front yards and common areas including all fencing, landscaping, amenities and

buffers, and shall include architectural control oversights for the development.

- b. The development shall be constructed and governed in conformity with the requirements of the Georgia Condominium Act (O.C.G.A. § 44-3-70 et seq.). A declaration of condominium shall be submitted and recorded in compliance of this act.
- c. All townhouses shall have two-car garages, and the parking pads/driveway in front of the garage shall be a minimum of twenty (20) feet in length in order to accommodate two (2) additional cars. The garages shall be used for the parking and storage of vehicles and may not be enclosed to provide for additional residential space. A recital of this requirement shall be contained within the covenants to ensure enforcement.
- d. A guest parking area shall be provided at a ratio of two-tenths (0.2) spaces per dwelling unit.
- e. A recreation area shall be provided at a ratio of one (1) acre per fifty (50) units (or a proportional percentage thereof) with a minimum of ten thousand (10,000) square feet provided. Such area shall be developed with at least one (1) passive recreational feature, such as a walking trail, pavilion, gazebo or picnic area, and at least one (1) active recreational feature, such as a swimming pool, playground or tennis courts. Active recreational areas must be outside of any floodplain area. and located in such a manner that at least seventy-five (75) percent of the townhouses are within three hundred (300) feet, as measured from the building footprints. All recreation areas must meet ADA requirements for accessibility.

(4)

Child care/daycare centers, early learning programs, *Family Child Care Learning Homes*, pre-schools, adult day cares and similar establishments.

(5) Accessory structures and uses incidental to any legal permitted use, including home occupations.

(c) *Conditional uses:*

(1) Places of assembly, including religious institutions, provided:

- a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(d) *Accessory structures/uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) No accessory structure shall be constructed upon a lot before the principal building.
- (4) Accessory structures greater than fifteen (15) feet in height, but less than thirty-five (35) feet in height, must be set back at least ten (10) feet from the side property line, and must be set back from the rear property line a distance of thirty (30) feet, or a distance equal to the height of the structure, whichever is less.
- (5) The area of the accessory building's footprint may not exceed five (50) percent that of the principal structure.
- (6) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.
- (7) Heating and air conditioning units may encroach five (5) feet into the required rear or side setback.

(e) *Use limitations:*

- (1) All outdoor storage must be stored in a side or rear yard and screened from all streets and adjacent properties by a fence at least six (6) feet in height. The Planning and Development Director may approve the substitution of plantings for the required fence.

(2) Unenclosed carports and front porches may not be used for storing any materials other than firewood or recyclable materials within a city approved container.

(3) Minimum parking provided shall be two (2) spaces per dwelling unit.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Max.)	0.4
Min. Residential Unit Size (finished, heated floor area)	800 sq. ft.
Building Coverage (Max, a % of lot area)	50%
Min. Open Space	N/A
Max. Building Height	
Min. Lot Size	5,000 sq. ft.
Min. Lot Width	50'
Minimum Front Yard Setback	15'
Minimum Side Yard Setback	5'
Minimum Rear Yard Setback	20'

(g) *Buffer requirements:*

(1) When attached single-family housing, duplex or triplex housing directly abuts the NR-1 or NR-2 districts, a twenty-foot landscaped buffer shall be required.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 704. - NR-CD, neighborhood residential-community development district.

(a) *Purpose and intent:* The NR-CD zoning district is primarily intended for multi-family housing developments. However, the district allows for a mix of housing types, including single-family attached and detached structures, as well as some limited institutional and personal service uses that would be convenient to nearby residents.

(b) *Permitted uses:*



- (1) Multi-family residential dwellings.
  - a. Apartments.
  - b. Condominiums.
- (2) Multi-family residential dwellings.
  - a. Duplexes.
  - b. Triplexes.
- (3) Townhomes, provided:
  - a. For all developments containing eight (8) units or more, a mandatory homeowners association shall be created that will be responsible for the upkeep and maintenance of all front yards and common areas including all fencing, landscaping, amenities and buffers, and shall include architectural control oversights for the development.
  - b. The development shall be constructed and governed in conformity with the requirements of the Georgia Condominium Act (O.C.G.A. § 44-3-70 et seq.). A declaration of condominium shall be submitted and recorded in compliance of this act.
  - c. All townhouses shall have two-car garages, and the parking pads/driveway in front of the garage shall be a minimum of twenty (20) feet in length in order to accommodate two (2) additional cars. The garages shall be used for the parking and storage of vehicles and may not be enclosed to provide for additional residential space. A recital of this requirement shall be contained within the covenants to ensure enforcement.
  - d. A guest parking area shall be provided at a ratio of two-tenths (0.2) spaces per dwelling unit.
  - e. A recreation area shall be provided at a ratio of one (1) acre per fifty (50) units (or a proportional percentage thereof) with a minimum of ten thousand (10,000) square feet provided. Such area shall be developed with at least one (1) passive recreational feature, such as a walking trail, pavilion, gazebo or picnic area, and at least one (1) active recreational feature, such as a swimming pool, playground or tennis courts. Active recreational areas must be outside of any floodplain area and located in such a manner that at least seventy-five (75) percent of the townhouses are within three hundred (300) feet, as measured from the building

footprints. All recreation areas must meet ADA requirements for accessibility.

- (4) Single-family detached residential dwellings.
- (5) Boarding and rooming houses, except halfway houses.
- (6) Child care/daycare centers, early learning programs, *Family Child Care Learning Homes*, pre-schools, adult day cares and similar establishments.
- (7) Assisted living, personal care, nursing and convalescent homes, and similar uses.
- (8) Accessory structures and uses incidental to any legal permitted use, including home occupations.

(c) *Conditional uses:*

- (1) Places of assembly, including religious institutions, provided:
  - a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
  - b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(d) *Accessory structures/uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) No accessory structure shall be constructed upon a lot before the principal building.
- (4) Accessory structures greater than fifteen (15) feet in height, but less than thirty-five (35) feet in height, must be set back at least ten (10) feet from the side property line, and must be set back from the rear property line a distance of thirty (30) feet, or a distance equal to the height of the structure, whichever is less.

(5) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.

(e) *Use limitations:*

(1) All outdoor storage must be stored in a side or rear yard and screened from all streets and adjacent properties by a wood fence at least six (6) feet in height. The Planning and Development Director may approve the substitution of plantings for the required fence.

(2) Unenclosed carports and front porches may not be used for storing any materials other than firewood or recyclable materials within a city approved container.

(3) Minimum parking provided shall be two (2) spaces per dwelling unit.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Residential, Max.)	0.5
Floor Area Ratio (FAR) (Non-Residential, Max.)	1.5
Floor Area Ratio (FAR) (Total, Max.)	2
Min. Residential Unit Size (finished, heated floor are)	700 sq. ft.
Building Coverage (Max, a % of lot area)	80%
Min. Open Space	20%
Max. Building Height	50'
Min. Lot Size	Single-Family Use: 5,000 sq. ft. Multi-Family Use: N/A Non-Residential Use: N/A
Min. Lot Width	Single-Family Use: 60' Multi-Family Use: 75' Non-Residential Use: 75'
Minimum Front Yard Setback	Single-Family Use: 10' Multi-Family Use: 10' Non-Residential Use: 30'
Minimum Side Yard Setback	Single-Family Use: 15' between units

	Multi-Family Use: 10' Non-Residential Use: 15'
Minimum Rear Yard Setback	25'

(g) *Buffer requirements:*

- (1) When a single-family attached or multi-family residential use in the NR-CD district directly abuts the NR-1 or NR-2 districts, a twenty-foot landscaped buffer shall be required. When a non-residential use in the NR-CD district abuts a residential use in the NR-1, NR-2 or NR-3 districts, a thirty-foot landscaped buffer shall be required.
- (2) There shall be no buffer required between residential and non-residential uses contained wholly within the NR-CD district.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 705. - RC, residential/commercial district.

(a) *Purpose and intent:* The RC zoning district is intended to allow converted residential structures with commercial uses to coexist with residential uses. Commercial uses will be limited in order to maintain the current balance and aesthetic in the surrounding area. Residences converted to office uses are acceptable when kept at current scale.

(b) Permitted uses:

- (1) Single-family detached residential dwellings.
- (2) Multi-family residential dwellings, including condominiums and apartment buildings consisting of at least four (4) individual units.
  - (4) Assisted living, personal care, nursing and convalescent homes, and similar uses.
  - (5) Banks and financial institutions.
  - (6) Child care/daycare centers, child care learning centers, early learning programs, *Family Child Care Learning Homes*, pre-schools, adult day care centers and similar establishments.

- (7) Professional offices, including medical doctors, dentists, attorneys, chiropractic, veterinary (without boarding), accountants/tax professionals and other similar occupations.
- (8) Personal service establishments including barber shops, hair salons, nail salons and other similar uses.
- (9) Eating and drinking establishments, excluding drive-thru/drive-in fast food establishments.
- (10) Accessory structures and uses incidental to any legal permitted use, including home occupations (when applicable).

(c) *Conditional uses:*

(1) Places of assembly, including religious institutions, provided:

- a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(2) Bed and breakfast inns, provided:

- a. The facility is operated by the resident-owner.
- b. The building and lot meet all applicable city and state code regulations, including minimum lot standards.
- c. A minimum of one (1) parking space per rental room is provided in addition to those required for the resident.
- d. The structure contains a minimum two thousand (2,000) square feet of gross heated floor area.

(3) Boarding and rooming houses, with a maximum of ten (10) beds per one thousand five hundred (1,500) square feet of heated floor area.

(d) *Accessory uses/structures:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.

- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) Any accessory building in excess of one thousand (1,000) square feet of gross space must be at least ten (10) feet from any property line and shall be architecturally compatible with the principal structure.
- (4) No accessory structure shall be constructed upon a lot before the principal building.
- (5) No accessory structure may exceed the more restrictive of either fifteen (15) feet or the height of the principal building.
- (6) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.
- (7) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.

(e) *Use limitations:*

- (1) No outdoor storage is permitted.
- (2) No uses which emit odors, fumes or continuous loud noise are permitted.
- (3) No kennels are permitted within veterinary clinics.
- (4) Building design and materials may be of the owner's choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Residential, Max.)	0.5
Floor Area Ratio (FAR) (Non-Residential, Max.)	0.5
Floor Area Ratio (FAR) (Total, Max.)	1
Min. Residential Unit Size (finished, heated floor are)	800 sq. ft.
Building Coverage (Max, a % of lot area)	50%
Min. Open Space	20%
Max. Building Height	35'

Min. Lot Size	7,200 sq. ft.
Min. Lot Width	50'
Minimum Front Yard Setback: Local Street	15'
Minimum Side Yard Setback	7'
Minimum Rear Yard Setback	20'

(g) *Buffer requirements:*

- (1) When a single-family residential use in the RC district directly abuts the NC-2 or TC district, a twenty-foot landscaped buffer shall be required.
- (2) There shall be no buffer required between residential and non-residential uses contained wholly within the RC district.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 706. - NC-1, low-density neighborhood commercial district.

(a) *Purpose and intent:* The NC-1 zoning district is intended to provide suitable areas for limited retail and personal services serving residents in the immediate vicinity. Uses located within this district supply those goods and services which require frequent purchasing with a minimum of customer travel. The scope at which properties are developed within the NC-1 district should reflect their relatively small market areas. This zoning district may serve as a step down from more intense commercial uses to residential uses.

(b) *Permitted uses:*

- (1) Banks and financial institutions.
- (2) Child care/daycare centers, child care learning centers, early learning programs, *Family Child Care Learning Homes*, pre-schools, adult day care centers and similar establishments.
- (3) Eating and drinking establishments, excluding drive-thru/drive-in fast food establishments.
- (4) Funeral homes (no on-site crematory services).

(5) Retail trade: Uses shall have no more than five thousand (5,000) square feet of gross floor area. Appropriate uses include:

(a) Art stores/galleries.

b. Antique shops.

c. Book and video stores (non-adult oriented).

d. Camera shops.

e. Dry cleaners.

f. Florists.

g. Drug stores.

h. Gift shops.

i. Toy stores.

j. Pet grooming and supply shops.

k. Jewelry stores.

l. Sporting goods and hobbies.

m. Shoe stores.

n. Apparel stores.

o. Other similar and customary uses.

(6) Non-automotive repair services such as cameras, jewelry, shoes and the like.

(7) Professional offices, including medical doctors, dentists, attorneys, chiropractic, veterinary (without boarding), accountants/tax professionals and other similar occupations.

(8) Personal service establishments including barber shops, hair salons, nail salons and other similar uses.

(9) Multi-family residential dwellings, including condominiums and apartment buildings consisting of at least four (4) individual units.

(10) Accessory uses and structures incidental to any legal permitted use, including home occupations (when applicable).

(c) *Conditional uses:*

(1) Places of assembly, including religious institutions, provided:



- a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(d) Accessory uses:

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) Any accessory building in excess of one thousand (1,000) square feet of gross space must be at least ten (10) feet from any property line and shall be architecturally compatible with the principal structure.
- (4) No accessory structure shall be constructed upon a lot before the principal building.
- (5) No accessory structure may exceed the more restrictive of either fifteen (15) feet or the height of the principal building.
- (6) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.
- (7) Recycling collection/drop off centers.
  - a. No outside storage allowed.
  - b. Container bins and/or donation boxes are limited to rear or side yards and must be located in such a manner as to be screened from view from the public right-of-way. When a business is located on a corner lot, container bins and/or donation boxes must be placed to the rear or interior side of the property such that the location is not visible from the right-of-way of any street.
  - c. A maximum of one (1) container bin/donation box per property is allowed.

- d. Container bins and/or donation boxes shall not be located within fifty (50) feet of a structure utilized for detached single-family residential purposes.
- e. Location of container bins and/or donation boxes must be approved by the city manager or his designee.

(e) *Use limitations:*

- (1) All outdoor storage must be located in the rear yard and must be screened by a solid fence or wall no less than six (6) feet in height.
- (2) No uses which emit odors, fumes or continuous loud noise are permitted (including manufacturing processes).
- (3) No kennels are permitted within veterinary clinics.
- (4) Building design and materials may be of the owner's choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.
- (5) All individual non-residential uses shall not exceed a maximum built floor area of two thousand five hundred (2,500) square feet.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Residential, Max.)	0.5
Floor Area Ratio (FAR) (Non-Residential, Max.)	0.5
Floor Area Ratio (FAR) (Total, Max.)	1
Min. Residential Unit Size (finished, heated floor are)	700 sq. ft.
Building Coverage (Max, a % of lot area)	80%
Min. Open Space	20%
Max. Building Height	35'
Min. Lot Size	6,000 sq. ft.
Min. Lot Width	50'
Minimum Front Yard Setback	10'
Minimum Side Yard Setback**	None or 8'
Minimum Rear Yard Setback***	10' or 20'**

\*\*Side yard setback must be greatest distance when abutting a single-family residential district

\*\*\*Rear yard setback must be of greatest distance when abutting a single-family residential district

(g) *Buffer requirements:*

- (1) When a use within the NC-1 district directly abuts the NR-1, NR-2 or NR-3 district, a thirty-foot landscaped buffer shall be required.

(h) *Temporary uses:* Temporary uses if approved pursuant to section 313.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 707. - NC-2, moderate-density neighborhood commercial district.

(a) *Purpose and intent:* The NC-2 zoning district is intended to provide suitable areas for the provision of retail and personal services oriented towards those neighborhoods making up the adjacent community. The regulations which apply within this district are designed to encourage the formation of compatible and economically healthy business and service uses which benefit from close proximity to each other.

(b) *Permitted uses:*

- (1) Banks and financial institutions.
- (2) Child care/daycare centers, child care learning centers, early learning programs, *Family Child Care Learning Homes*, pre-schools, adult day care centers and similar establishments.
- (3) Car washes.
- (4) Eating and drinking establishments, including drive-thru/drive-in fast food establishments.
- (5) Funeral homes (no on-site crematory services).
- (6) Retail trade. Single uses shall have no more than twenty (20,000) square feet of gross floor area. Appropriate uses include:
  - a. Art stores/galleries.
  - b. Antique shops.

- c. Book and video stores (non-adult oriented).
- d. Camera shops.
- e. Dry cleaners.
- f. Florists.
- g. Drug stores.
- h. Gift shops.
- i. Toy stores.
- j. Pet grooming and supply shops.
- k. Jewelry stores.
- l. Sporting goods and hobbies.
- m. Shoe stores.
- n. Apparel stores.
- o. Other similar and customary uses.

(7) Non-automotive repair services such as cameras, jewelry, shoes and the like.

(8) Professional offices, including medical doctors, dentists, attorneys, chiropractic, veterinary, accountants/tax professionals and other similar occupations.

(9) Personal service establishments including barber shops, hair salons, nail salons and other similar uses.

(10) Tattoo parlors and piercing studios.

(11) Multi-family residential dwellings, including condominiums and apartment buildings consisting of at least four (4) individual units.

(12) Accessory uses and structures incidental to any legal permitted use, including home occupations (when applicable).

(c) *Conditional uses:*

(1) Places of assembly, including religious institutions, provided:

- a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
- b. Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

(2) Automobile service stations and automotive repair centers (excluding paint and body), provided:

- a. All gasoline pumps, tanks and other service facilities shall be set back at least twenty (20) feet from all property lines unless otherwise approved by the DeKalb County Fire Marshal.
- b. Canopies over fuel islands shall not encroach within fifteen (15) feet of any property line.
- c. Automobile repair shall be allowed in conjunction with such use provided all such activities shall take place within an enclosed building.
- d. No outside storage or engine/body dismantling is allowed.

(d) *Accessory uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) Any accessory building in excess of one thousand (1,000) square feet of gross space must be at least ten (10) feet from any property line and shall be architecturally compatible with the principal structure.
- (4) No accessory structure shall be constructed upon a lot before the principal building.
- (5) No accessory structure may exceed the more restrictive of either fifteen (15) feet or the height of the principal building
- (6) The area of the accessory building's footprint may not exceed feet (50) percent that of the principal structure.
- (7) Recycling collection/drop off centers.
  - a. No outside storage allowed.
  - b. Container bins and/or donation boxes are limited to rear or side yards and must be located in such a manner as to be screened from view from the public right-of-way. When a business is located on a corner lot, container bins and/or donation boxes must be

placed to the rear or interior side of the property such that the location is not visible from the right-of-way of any street.

- c. A maximum of one (1) container bin/donation box per property is allowed.
- d. Container bins and/or donation boxes shall not be located within fifty (50) feet of a structure utilized for detached single-family residential purposes.
- e. Location of container bins and/or donation boxes must be approved by the city manager or his designee.

**(e) Use limitations:**

- (1) All outdoor storage must be located in the rear yard and must be screened by a solid fence or wall no less than six (6) feet in height. Limited to twenty-five (25) percent of total lot area.
- (2) No manufacturing process are permitted.
- (3) Building design and materials may be of the owner's choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.
- (4) residential uses shall be located only directly above non-residential uses as part of the same structure.

**(f) Bulk and area regulations:**

Floor Area Ratio (FAR) (Residential, Max.)	1
Floor Area Ratio (FAR) (Non-Residential, Max.)	1
Floor Area Ratio (FAR) (Total, Max.)	2
Min. Residential Unit Size (finished, heated floor are)	700 sq. ft.
Building Coverage (Max, a % of lot area)	80%
Min. Open Space	20%
Max. Building Height	50'
Min. Lot Size	8,500 sq. ft.
Min. Lot Width	75'
Minimum Front Yard Setback	10'

Minimum Side Yard Setback**	None or 8'
Minimum Rear Yard Setback***	10' or 20'**
** Side yard setback must be greatest distance when abutting a single-family residential district	
***Rear yard setback must be of greatest distance when abutting a single-family residential district	

(g) *Buffer requirements:*

- (1) When a use within the NC-2 district directly abuts any residential use, a forty-foot landscaped buffer shall be required.
- (2) There shall be no buffer requirement between adjacent residential and non-residential uses when both are located within the NC-2 district.

(h) *Temporary uses:* Temporary Uses if approved pursuant to section 313.

(Ord. No. 375, § 8(Attach.), 10-1-13)

Sec. 708. - TC, town center district.

(a) *Purpose and intent:*

- (1) Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas;
- (2) Promote a diverse mix of residential, business, commercial, office, institutional, cultural and entertainment activities for workers, visitors, and residents;
- (3) Encourage bicycle and pedestrian-oriented development at densities and intensities that will help to support transit usage and town center businesses;
- (4) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (5) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and

- (6) Enhance the community's character through the promotion of high-quality urban design.
- (b) *General application*: Design standards included in the town center district shall apply to new construction and redevelopment. Buildings undergoing alteration shall meet design standards to the extent practicable, as approved at a regular meeting of the planning and zoning board.
- (c) *Permitted uses*:
  - (1) Banks and credit unions.
  - (2) Bed and breakfast inns, provided:
    - a. The facility is operated by the resident-owner.
    - b. The building and lot meet all applicable city and state code regulations, including minimum lot standards.
    - c. The structure contains a minimum two thousand (2,000) square feet of gross heated floor area.
  - (3) Child care/daycare centers, child care learning centers, early learning programs, *Family Child Care Learning Homes*, pre-schools and similar establishments.
  - (4) Eating and drinking establishments, excluding drive-through/drive-in establishments.
  - (5) Entertainment venues, including bowling alleys, movie theaters (non-adult oriented) and other similar and customary uses.
  - (6) Funeral homes (no on-site crematory services).
  - (7) Hotels.
  - (8) Retail trade: Uses shall have no more than forty thousand (40,000) square feet of gross floor area. Appropriate uses include:
    - a. Art stores/galleries.
    - b. Antique shops.
    - c. Apparel stores.
    - d. Book, music and video stores (non-adult oriented).
    - e. Bottle shops/package stores.
    - f. Camera shops.
    - g. Drug stores, excluding drive-through establishments.



- h. Dry cleaners, excluding drive through establishments.
  - i. Electronics and appliance stores.
  - j. Florists.
  - k. Furniture and home furnishings.
  - l. Gift shops.
  - m. Grocery stores.
  - n. Jewelry stores.
  - o. Pet grooming and supply shops.
  - p. Shoe stores.
  - q. Sporting goods and hobbies.
  - r. Toy stores.
  - s. Other similar and customary uses.
- (9) Non-automotive repair services such as cameras, jewelry, shoes and the like.
- (10) Professional offices, including accountants/tax professionals, attorneys, chiropractic, dentists, medical doctors, real estate, veterinary, and other similar occupations.
- (11) Personal service establishments including barber shops, hair salons, nail salons and other similar uses.
- (12) Tattoo parlors and piercing studios.
- (13) Multi-family residential dwellings, provided that they are part of a mixed use building and not located on the ground floor.
- (14) Mixed use buildings with any of the above listed uses on the first floor, except residential; and owner or renter occupied dwelling units, located above street level.
- (15) Accessory uses incidental to any legal permitted use, including home occupations (when applicable).

(d) *Prohibited uses:*

- (1) Adult entertainment establishments but not limited to, adult bookstores, video or DVD adult rental or purchase, adult movie or adult live theaters, adult gifts and novelties, and other venues for

viewing other adult entertainment through any other electronic or other technological medium.

- (2) Automotive repair shops, dealerships and auto parts stores.
- (3) Extended stay motels/hotels.
- (4) Flea markets.
- (5) Firearm dealers.
- (6) Labor pools.
- (7) Hookah bar and/or vape lounges within five hundred (500) feet of school, place of worship, public park or other hookah or vape establishment.
- (8) Pawnshops.
- (9) Title loan institutions.
- (10) Any use of property not specifically allowed by section 708(c).

(e) *Accessory structures:*

- (1) All such structures shall be located upon the same lot and only in the side or rear yard of the principal use at least ten (10) feet from any lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) Any accessory structure in excess of six hundred (600) square feet of gross space must be at least ten (10) feet from any property line and shall be architecturally compatible with the principal structure.
- (4) Building design and materials shall be consistent with design approved by planning and zoning board; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.
- (5) No accessory structure shall be constructed or placed upon a lot before the principal building is constructed.
- (6) No accessory structure may exceed the more restrictive of either fifteen (15) feet or the height of the principal building.

(7) The area of the accessory structure's footprint may not exceed fifty (50) percent that of the principal structure.

(f) *Accessory use limitations:*

(1) All outdoor storage must be located in the rear yard and must be screened by a solid fence or wall no less than six (6) feet in height. Limited to twenty-five (25) percent of total lot area.

(2) Accessory uses must be permitted within the zoning district.

(g) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Residential, Max.)	3
Floor Area Ratio (FAR) (Non-Residential, Max.)	3
Floor Area Ratio (FAR) (Total Mixed Use Max.)	5
Min. Residential Unit Size (finished, heated floor area)	700 sq. ft.
Building Coverage (Max., a % of lot area)	80%
Min. Open Space	20%
Max. Building Height	75'
Min. Lot Size	N/A
Min. Lot Width	N/A

(h) *Setbacks:*

(1) No minimum front building setback is required.

(2) The maximum front building setback may not exceed the average front yard depth of the nearest two (2) lots on either side of the subject lot or twelve (12) feet, whichever is less.

a. If one or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero (0) feet

b. Lots fronting a different street than the subject lot or separated from the subject lot by a street or alley may not be used in determining the average.

- c. When the subject lot is a corner lot, the average setback will be determined on the basis of the two (2) adjacent lots that front on the same street as the subject lot.
  - d. When the subject lot abuts a corner lot fronting on the same street, the average setback will be determined on the basis of the abutting corner lot and the nearest two lots that front on the same street as the subject lot.
- (3) The following exceptions to the maximum front building setbacks apply:
- a. A portion of the building may be set back from the maximum setback line in order to provide an articulated façade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.
  - b. A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the streetwall, the building may be set back no more than twelve (12) feet from the front or street side property line or at least forty (40) percent of the building façade must be located at the maximum setback line. The total area of an outdoor eating area that is located between a public sidewalk and the building façade may not exceed 12 times the building's street frontage in linear feet.
- (4) The minimum rear setback is ten (10) feet, or twenty (20) feet for TC-zoned properties that abut a single-family residential district.
- (5) No interior side setbacks are required in the TC district, except when TC-zoned property abuts a single-family residential district, in which case the minimum side yard setback required in the TC district must be the same as required for a residential use on the abutting residential zoned lot.
- (i) *Buffer requirements:*
    - (1) When a use within the TC district abuts any single-family residential district, a ten-foot buffer shall be required.
  - (j) *Temporary uses:* Temporary uses if approved pursuant to section 313.
  - (k) *Open space density bonus:* Every one (1) square foot of additional open space provided in excess of the minimum open space requirement in

section 708 (g) shall increase the maximum floor area for the development by ten (10) square feet.

(l) *Building facades and entrances:*

(1) Building facades shall be articulated to minimize the monotonous appearance of large buildings through the use of architectural elements such as recessed windows and entries, offset surfaces, differentiated piers and columns, offset planes, textured materials, or awnings,

a. Variations in facade treatment shall be continued throughout the structure, including its roof line and front and rear facades.

b. Blank lengths of wall exceeding thirty (30) linear feet are prohibited on all building facades.

(2) Delineation of building floors at the third story above sidewalk level and lower shall be executed through windows, belt courses, cornice lines or similar architectural detailing.

(3) A street address number shall be located directly above the primary building entrance, shall be clearly visible from the sidewalk and shall be a minimum of six (6) inches in height.

(4) The primary pedestrian access to all sidewalk level uses and business establishments with public or private street frontage:

a. Shall face and be visible from the public street when located adjacent to such street. When located adjacent to a street that functions as an arterial street or a collector street, said entrance shall face and be visible from such street.

b. Shall be directly accessible and visible from the sidewalk adjacent to such street.

c. Shall remain unlocked during business hours for non-residential uses, including hotels and bed and breakfast inns.

d. Buildings on corner lots shall have an angled entrance oriented toward the intersection.

(m) *Franchise architecture:* Buildings where the proposed architecture is the result of "corporate" or franchise style shall be prohibited. New construction should provide variety and diversity and express its own uniqueness of structure, location or tenant. Buildings shall be consistent with the local architectural vernacular, establish a sense of permanence,

and avoid over- commercialization. Building design shall reflect local, unique, and traditional designs rather than chain or franchise designs.

- (n) *Color*: The overall exterior color scheme shall be included in the permit application as a colored depiction and shall be selected from the approved color palette and be harmonious with the neighborhood and blend with the natural surroundings of the site. Consideration shall be given to the compatibility of colors with those existing in the vicinity. The size of the structure and the amount of shading it will receive are also a factor in selection of colors. Examples of incompatible colors include day glow and metallic colors.

(Ord. No. 375, § 8(Attach.), 10-1-13; [Ord. No. 396, §§ 1—14, 7-5-16](#) )

Sec. 709. - I, light industrial district.

- (a) *Purpose and intent*: The I zoning district is intended to provide suitable areas for business distribution/service facilities, transportation terminals and manufacturing/assembly processes which do not emit noise, vibration, smoke, gas, fumes, or odors from an enclosed building. These districts should have access to arterial roadways and utilities and discourage uses which are incompatible with light manufacturing. When located on the perimeter of an industrial node, I-zoned properties should provide for uses that are low in intensity and scale to ensure compatibility with adjacent properties.

(b) *Permitted uses*:

- (1) Places of assembly, including religious institutions.
- (2) Automobile, truck, motorcycle and heavy equipment sales/service/rental/parts/repair establishments.
- (3) Automobile service stations and automotive service centers, including paint and body repair.
- (4) Pet boarding/breeding kennels.
- (5) Communications towers (cellular).
- (6) Commercial dry cleaning plants.
- (7) Entertainment venues, including bowling alleys, movie theaters (non-adult oriented) and other similar and customary uses.
- (8) Fortune tellers, psychics and similar forms of personal entertainment.
- (9) Funeral homes (no on-site crematory services).

- (10) Greenhouses and horticultural nurseries.
- (11) Hospitals.
- (12) Manufacturing and assembly, provided no gas, fumes or odors are emitted as a result of the activity.
- (13) Car washes.
- (14) Mini-warehouses and self-storage facilities.
- (15) Professional offices, including medical doctors, dentists, attorneys, chiropractic, veterinary, accountants/tax professionals and other similar occupations.
- (16) Bottle shops/package stores.
- (17) Research and experimental testing laboratories.
- (18) Eating and drinking establishments, including drive-thru/drive-in fast food establishments.
- (19) Non-automotive repair services such as cameras, jewelry, shoes and the like.
- (20) Tattoo parlors and piercing studios.
- (21) Taxi stands and dispatching agencies.
- (22) Trade shops, building and equipment supply/repair services, including:
  - a. Locksmiths
  - b. Gunsmiths
  - c. Sheet metal
  - d. Upholstering
  - e. Furniture
  - f. Appliance
  - g. Electrical
  - h. Carpentry
  - i. Sign manufacturing/assembly/repair
  - j. Other similar and customary uses
  - k. Wholesaling and warehousing with associated office and storage facilities

- (23) Accessory uses and structures incidental to any legal permitted use, provided:
- a. Retail sales and services must be conducted and accessed wholly within the building(s) housing the use to which the activities are accessory and comprise no more than ten (10) percent of the gross floor area.
  - b. No show window or other advertising shall be visible from the exterior of the primary use structure.

(c) *Conditional uses:*

- (1) Adult entertainment, including massage parlors, adult video/book stores, gentleman's clubs and other similar uses.
- (2) Crematories.
- (3) Title loan businesses, pawn shops and similar establishments.

(d) *Accessory uses:*

- (1) All such structures shall be located upon the same lot and to the side or rear of the principal use at least fifteen (15) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
- (2) When an accessory structure is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
- (3) Any accessory building in excess of two thousand (2,000) square feet of gross space must be at least ten (10) feet from any property line and shall be architecturally compatible with the principal structure.
- (4) No accessory structure shall be constructed upon a lot before the principal building.
- (5) No accessory structure may exceed the more restrictive of either twenty (20) feet or the height of the principal building.
- (6) The area of the accessory building's footprint may not exceed fifty (50) percent that of the principal structure.
- (7) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.



(e) *Use limitations:*

- (1) All outdoor storage must be screened by an opaque fence no less than eight (8) feet in height. Maximum of fifty (50) percent of lot may be utilized for such use.
- (2) Building design and materials may be of the developer's choosing; however, structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.
- (3) Cellular telecommunications towers shall be located at a minimum distance of two hundred fifty (250) feet from all residential dwellings.

(f) *Bulk and area regulations:*

Floor Area Ratio (FAR) (Residential, Max.)	N/A
Floor Area Ratio (FAR) (Non-Residential, Max.)	2
Floor Area Ratio (FAR) (Total, Max.)	2
Min. Residential Unit Size (finished, heated floor are)	N/A
Building Coverage (Max, a % of lot area)	70%
Min. Open Space	N/A
Max. Building Height	50'
Min. Lot Size	N/A
Min. Lot Width	N/A
Minimum Front Yard Setback	35'
Minimum Side Yard Setback	15'
Minimum Rear Yard Setback***	20' or 50'***
***Rear yard setback must be of greatest distance when abutting a single-family residential district	

(g) *Buffer requirements:*

- (1) When a use within the I district abuts any residential district or use, a fifty-foot landscaped buffer shall be required.

(2) All loading docks shall be screened by either landscaping or a stabilized berm.

(h) *Temporary uses*: Temporary uses if approved pursuant to section 313.

(Ord. No. 375, § 8(Attach.), 10-1-13)

#### ARTICLE VIII. - NONCONFORMING USES

##### Sec. 801. - Nonconforming uses.

Within the zoning districts established by this zoning ordinance or amendments that may be adopted later there might exist land, structures, and uses of land and structures in combination which were lawful before this zoning ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this zoning ordinance or future amendments. Such nonconforming uses are declared by this zoning ordinance to be incompatible with permitted uses in the districts involved. It is the intent of this zoning ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuance.

##### Sec. 802. - General rule.

To avoid undue hardship, the lawful use of any building, structure or land use at the time of enactment of this zoning ordinance may be continued even though such use does not conform with the provisions of this zoning ordinance except that the nonconforming building or land use 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) Reestablished after discontinuance of six (6) months or more. When a nonconforming use of a building, structure or land use is discontinued for a continuous period of six (6) months, the building, structure or land shall not thereafter be used except in conformity with the existing zoning regulations of the district in which the building, structure or land is located. The provisions of this subparagraph shall operate to prohibit resumption of the nonconforming use after the specified time has elapsed, regardless of any reservation of an intent not to abandon the right to use the building, structure or land use not in conformance with the provisions of this zoning ordinance.
- (c) Major repairs, rehabilitation or alterations. A nonconforming building or structure that is repaired, rebuilt, or altered after damage exceeding fifty (50) percent of its replacement cost at the time of destruction for

all uses shall be brought into conformity with the provisions of this zoning ordinance. As an exception to this requirement, single-family detached uses shall be permitted after any damage to be repaired or rebuilt to the equivalent of its pre-damaged condition. Authorized reconstruction shall begin within one (1) year after damage is incurred.

- (d) Enlargement or alteration. Enlarging, extending, altering or moving a building or structure that would increase its nonconformity shall not be allowed, except that a nonconforming use may be extended into an additional area of a building, structure or land use that existed at the time of passage or amendment of this zoning ordinance. No such nonconforming use shall be extended to occupy any land outside such building or structure.

Also to avoid undue hardship, nothing in this zoning ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this zoning ordinance.

Sec. 803. - Nonconforming lots of record.

Nonconforming lots of record are also known as substandard lots of record and their use is regulated by Article V of this zoning ordinance.

#### ARTICLE IX. - PLANNED DEVELOPMENTS

Sec. 901. - Purpose of planned unit developments.

Planned unit developments encourage the best possible site plans and building arrangements under a unified plan of development rather than on a lot-by-lot basis. The developer benefits from better land utilization, economy in the provision of roads and utilities and flexibility in design. The city gains the advantages of variety in building types, compatibility of uses and optimum community development. Review of the development plan by the city provides an opportunity to assure that the development will be in harmony with the character of the neighborhood in which the development is located.

- (a) *Purpose and definition.* Planned unit development is defined as two (2) or more buildings to be constructed on a tract or several tracts of land of the minimum size established in section 903. The purpose of the planned unit development shall be to:

- (1) Provide for unified approaches to the development of land;

- (2) Provide for a simplified process of enabling development which would otherwise require numerous applications for variations from the provisions of the zoning code;
- (3) Provide for the development of stable environments that are compatible with surrounding areas of the community; and
- (4) Assure the provision of park and recreation land and facilities for the use of the occupants of the development.

(Ord. No. 358, §§ 1, 2, 3-1-11)

Sec. 902. - Ownership control. See attached Ordinance No. 414

All of the land in a planned unit development shall be owned initially by an individual, by a corporation or by some other legal entity. Individual properties in a planned unit development may be sold after a final plat has been recorded with the properties subject to private deed covenants that assure the continuance of the planned unit development as originally approved and developed. Cottage Housing shall be developed as condominiums and is not allowed as small lot subdivisions.

Sec. 903. - Standards applying to all planned unit developments.

All planned unit developments shall meet the following standards and such other requirements as are set forth with respect to each of the four (4) permitted types of planned unit developments:

(a) *Types of planned unit developments.* The following types of planned unit developments are authorized by this ordinance. They are required to have the minimum footage indicated.

- (1) Planned residential developments: Twenty thousand (20,000) square feet.
- (2) Cottage housing developments: Eleven thousand six hundred sixteen (11,616) square feet.
- (3) Planned mixed-use developments: Forty thousand (40,000) square feet on multiple parcels.
- (4) Planned commercial development: Two (2) acres.

(b) *Development standards.*

- (1) The development shall utilize design and development features that would not be possible by the application of lot-by-lot zoning district regulations.

- (2) Site planning. Site planning in the proposed planned unit development shall give consideration to the topography; it shall be compatible with the topography of the land and shall preserve any unusual and valuable natural features.
  - (3) The development shall not adversely affect developed or undeveloped neighboring properties; it should consider the location of structures, screening, setbacks and street design in the evaluation of the relationship of the development to its surrounding areas.
  - (4) Service and emergency access. Access and circulation shall adequately provide for firefighting and other emergency equipment, service deliveries and refuse collection.
  - (5) Infrastructure. Provision shall be made for acceptable design and construction of storm sewers and stormwater retention facilities, as required by Chapter 19 of the City Code and by DeKalb County. Transportation and school facilities shall be adequate for the proposed development or there shall be a definite proposal for making them so. All planned developments are required to connect to city/county water and sewer system.
  - (6) Covenants. The planned unit development shall include such covenants and legal provisions as will assure conformity to the achievement of the plan
- (c) *Conformance with existing zoning.*
- (1) *Location.* Planned developments may be located in zoning districts as follows:
    - a. *Planned residential developments may be located within the NR-2, NR-3, and NR-CD zoning districts.*
    - b. *Planned commercial developments may be located in the NC-1, NC-2, RC, and TC zoning districts.*
    - c. *Planned mixed use developments may be located in the NC-1, NC-2, NR-CD and TC zoning districts.*
  - (2) *Permitted uses.* Only those uses permitted in the zoning district in which the proposed development is located shall be permitted in the planned unit development.
  - (3) *Future development plan.* Planned unit developments shall not violate the provisions of the future development plan.

- (4) *Height.* The height limitations of the zoning district in which the planned unit development is located shall be met.
- (5) *Density.* The maximum density of a planned residential development shall not exceed the density of the zoning district in which it is located. Cottage housing developments may attain the density as provided herein.
- (6) *Signs.* Planned unit developments shall strictly comply with the signage provisions of Chapter 15.5 of the Clarkston City Code.
- (7) *Off-street parking requirements.* The off-street parking requirements of this zoning ordinance shall be met.
- (8) *Yards.* Along the exterior boundaries of a planned development, no yard shall be less than five (5) feet in width and buffer requirements of this ordinance shall be met.
- (9) *Common open space requirements.* The open space requirements for the underlying district shall be met.

Sec. 904. - Standards applying to cottage housing developments (CHD).

The following regulations apply to cottage housing developments (CHDs):

- (a) CHDs are allowed in the following zoning districts: Neighborhood Residential-3 (NR-3) and Neighborhood Residential- Community Development (NR-CD)
- (b) The following requirements shall apply to all CHDs.
  - (1) *Density and minimum lot area.*
    - a. In CHDs the permitted density shall be one (1) dwelling unit per two thousand nine hundred four (2,904) SF of lot area (fifteen (15)/acre).
    - b. The minimum lot area for a CHD shall be seven (7,000) thousand six hundred sixteen (11,616) square feet.
    - c. Cottage homes shall be developed in clusters of minimum two (2) homes to a maximum of twelve (12) homes.
  - (2) *Height limit and roof pitch.*
    - a. The height limit permitted for structures in CHDs shall be eighteen (18) feet.

- b. The ridge of pitched roofs with a minimum slope of six (6) to (12) twelve may extend up to twenty-five (25) feet. All parts of the roof above eighteen (18) feet shall be pitched. These heights are intended to allow maximum one and one-half (1½) story homes.

(3) *Lot coverage and floor area.*

- a. The maximum first floor or main floor area for an individual principal structure in a CHD shall be 1,250 square feet.

(4) *Yard Setbacks.*

- a. Front Yards. When fronting a public street, the front yard must be fifteen (15) feet with an allowable seven (7) foot encroachment for a front porch. On non-public streets, the front yard setback shall be at least ten (10) feet with an allowable encroachment for a front porch of no greater than five (5) feet.
- b. Rear yards. The minimum rear yard shall be ten (10) feet.

(5) *Required open space.*

- a. A minimum of four hundred (400) square feet per unit of common open space is required.
- b. At least fifty (50%) of the cottage unit shall abut the common open space.
- c. All of the cottage units shall be within one-hundred (100) feet walking distance of the common open space.,
- d. The common open space shall have cottages abutting at least two (2) sides.
- c. At least fifty (50%) of the Cottage home units shall be oriented around and have covered porches or main entry from the common open space.

(6) *Parking.* Parking spaces for each cottage home unit shall be provided as follows:

- a. Units that exceed six hundred fifty (650) square feet on main floor: two (2) spaces. Units that do not exceed six hundred fifty (650) square feet on main floor: one and one half (1.5) spaces.
- b. Location. Parking shall be located on the CHD property. It may be located in a structure, under a structure, or outside a structure provided that:
  - (i) Parking is screened from direct view from street by one or more building facades, by garage doors, or by a fence and landscaping;
  - (ii) Parking is not located in the front yard;
  - (iii) Parking is only allowed between structures when it is located toward the rear of the principal structure and is served by an alley or private driveway;
  - (iv) Parking may be located between any structure and the rear lot line of the lot or between any structure and a side lot line which is not a street side lot line.

a.

- b. Location. Parking shall be located on the CHD property. It may be located in a structure, under a structure, or outside a structure provided that:
  - (i) Parking is screened from direct street view by one or more building facades, by garage doors, or by a fence and landscaping;
  - (ii) Parking is not located in the front yard;
  - (iii) Parking is only allowed between structures when it is located toward the rear of the principal structure and is served by an alley or private driveway;
  - (iv) Parking may be located between any structure and the rear lot line of the lot or between any structure and a side lot line which is not a street side lot line.

*(7) Additional requirements.*

- a. Cottage homes shall have a covered porch at least sixty (60) square feet in size.
- b. All structures shall maintain ten (10) feet of separation within the cluster.
- c. The condominium association or homeowners' association shall maintain the required open space and all common areas.



- d. Each cottage home shall have access to clothes washers and dryer facilities, either through installation of connections to clothes washers and dryers in the cottage home, or access to clothes washers and dryers in a building located in the common open space.
  - e. Developers of cottage homes are encouraged to provide pervious parking areas. In any event, every cottage home development shall comply with Chapter 22 of the Clarkston City Code regarding stormwater management.
- (c) Other provisions of the Zoning Ordinance, including but not limited to sections 608 and 609, shall be construed to permit cottage housing development in conformance with this section. Lots may be reduced in size, as would otherwise be prohibited by section 608, in order to develop cottage housing in compliance with sections 901 through 906.

Sec. 905. - Standards applying to construction, development, and maintenance of planned developments.

- (a) *General private deed covenants.* The entire planned development shall be included within private deed covenants running with the land to assure the continuance of the planned residential development in accordance with approved plans and development. No certificate of occupancy shall be issued until a copy of the recorded legal covenants has been submitted to the city.
- (b) *Phased development projects.* PUD applicants may propose construction phases (commencement and completion dates) for a planned residential development project that has identified, logical geographical sections or pods; a construction phasing plan shall be reviewed by the city zoning and review commission and the mayor and city council for approval.
- (c) *Performance bonds required.* The landowner shall furnish such bond or bonds as may be recommended to the city council by the zoning and review commission and approved by the mayor and city council to be reasonably required to assure performance in accordance with the planned development plan and to protect the public interest in the event of abandonment of said plan before completion.
- (d) *Open space maintenance.* In event the property owners' association for a planned residential or cottage housing development fails to maintain the common open space property, the city may serve written notice upon the property owners' association and upon the residents and owners of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof,

and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice.

- (1) If the deficiencies are not corrected within said thirty (30) days, the city, in order to preserve the taxable values of the properties within the planned development and to prevent the common open space from becoming a public nuisance, may enter upon said common open spaces and maintain the same for one (1) year and thereafter until the property owners' association is prepared to provide proper maintenance.
- (2) The cost of such maintenance by the city shall be assessed ratably against the properties within the planned residential or cottage development that have a right of enjoyment of the common open space and shall become a tax lien upon said properties. The city at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the county tax assessor upon the properties affected by such lien within the planned residential development.

Sec. 906. - Procedures.

The following procedures shall be followed in the establishment of a planned unit development.

- (a) *Optional pre-application meeting.* Prior to the submittal of a planned development application, the applicant may meet with the designated Planning and Development Director for a preliminary conference on the location, scope and nature of the proposed development. A written report on the pre-application meeting shall be prepared and transmitted to the applicant and to the mayor and city council for their information.
- (b) *Formal application and completeness check.* A formal application for a planned development shall be made by the applicant to the city clerk.
  - (1) *Required information.* The applicant shall submit the following information and such other materials as the planning and zoning board and mayor and city council may require to determine whether the proposed development meets the required standards.
    - a. Plans in accordance with the requirements of section 302 of this zoning ordinance.

- b. Other applicable information regarding the relation of the proposed development to surrounding development and roads, as well as common open space proposed on the site.
  - c. A preliminary outline of proposed protective covenants, including provisions for the organization and continued financing of a property owners' association except in commercial planned unit developments.
  - d. Any statistical tabulations required to show that the proposed development meets the specific requirements of the proposed planned unit development.
  - e. If the proposed planned unit development is to be subdivided, then the application for approval of the planned unit development shall include all information required for the preliminary approval of a subdivision under chapter 17, subdivision regulations, of the City Code.
- (2) *Completeness check.* The city clerk or designated Planning and Development Director shall review the application for completeness. Once certified complete, the application shall be transmitted to the planning and zoning board for review and recommendation to the mayor and city council.
- (c) *Plan review and approval criteria.*
- (1) Within thirty (30) days of receipt of the formal application and all required information, the application shall be reviewed by the designated Planning and Development Director who shall prepare a staff report and the application shall be added to the next appropriate planning and zoning board agenda; the planning and zoning board shall review the proposed development for conformance to this ordinance and for achievement of the purposes of this section and shall make a written recommendation for approval or disapproval to the mayor and city council.
  - (2) Failure to act. If the planning and zoning board fails to submit a report within thirty (30) days after it has received the proposed planned development application, it shall be deemed to have recommended approval to the mayor and city council. The planning and zoning board and the applicant may jointly agree to a thirty-day postponement, provided that notice of such agreement shall be sent to the mayor and city council. In any case,

all materials concerning the proposed planned unit development shall be forwarded to the mayor and city council no later than sixty (60) days from the receipt of an application certified as complete.

(d) *City council hearing and final action.* At the next regularly scheduled meeting after the zoning and review commission has conducted an application review and recommendation, the mayor and city council shall review and consider the proposed application and materials for a public hearing.

(1) If the proposed planned unit development is deemed acceptable for further consideration, the city council shall hold a public hearing thereon. The notice of the time and place of such hearing shall be published at least fifteen (15) days prior to the hearing in the official legal organ of the city or in the official legal organ of DeKalb County. At the hearing, any party may appear in person or by agent or attorney.

(2) In addition, the city shall erect in a conspicuous place on the property involved a sign which shall contain information as to the planned unit development applied for and time and place of the hearing. Failure to erect and maintain the sign as specified above shall not invalidate the subsequent determination of the mayor and city council.

(3) Within forty-five (45) days after the public hearing the mayor and city council shall approve or deny the planned unit development. The mayor and city council and the applicant may jointly agree to postpone action for a forty-five-day period but the final decision shall be made not later than sixty (60) days from the public hearing.

(e) *General standards for approval.* Planned unit developments may be approved subject to such conditions as may be imposed in order to mitigate impacts which may be expected without the imposition of conditions. The following general standards shall be considered in determining whether the planned unit development shall be approved:

(1) Is the proposed development suitable in view of the use and development of adjacent and nearby property?

(2) Does the proposed development adversely affect the existing use or usability of adjacent or nearby property?

- (3) Does the proposed development result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?
  - (4) Are there other existing or changing conditions which, because of their impact on the public health, safety, morality and general welfare of the community give supporting grounds for either the approval or denial of the proposed development?
- (f) *Preliminary and final land subdivision plats.* Final approval of the planned unit development by the mayor and city council authorizes the applicant to prepare a preliminary land subdivision plat when applicable. A copy of this authorization together with a copy of the materials submitted by the applicant shall be sent to Planning and Development Director.
- (1) No site development shall be undertaken by the applicant and no permits shall be issued to him/her until the preliminary land subdivision plat has been officially approved by the planning and zoning board and the mayor and city council in accordance with the Clarkston land subdivision regulations (chapter 17 of the City Code).
  - (2) A final land subdivision plat shall be prepared by the developer after approval of the preliminary plat.
  - (3) If the final land subdivision plat meets the requirements of subdivision regulations of the city, it shall be approved by the zoning and review commission and the mayor and city council and recorded in accordance with land subdivision regulation procedures.
- (g) *Modification of approved planned unit developments:* The mayor or his/her designee shall have sole authority to approve minor changes to approved planned unit developments. For the purposes of this section, a minor change in the approved planned unit development means a slight alteration to a planned unit development or change in layout that does not result in the visible intrusion of any building, structure, driveway, walkway, parking lot, plaza, wall or similar built element into any open space, yard, landscaped buffer, undeveloped space, or any similar space, when any such space is shown on the final "conditional" plan as being next to and visible from a property line or street.

(Ord. No. 358, §§ 1, 2, 3-1-11)

ARTICLE X. - CIVIC DESIGN

Sec. 1001. - General application.

The following civic design standards shall apply to all zoning districts.

Sec. 1002. - Administrative variance.

The city manager has the authority to modify certain provisions of this article pursuant to section 309.

(Ord. No. 375, § 9, 10-1-13)

Sec. 1003. - Sidewalks and street trees.

In addition to the requirements below, the city may provide developers with adopted typical streetscape designs for designated areas. Such design may include additional materials, details and specifications regarding street trees, street lights, litter containers, benches and similar sidewalk-related items. Conformity with the city bike and pedestrian plan is also required where applicable. In addition, properties with required landscape or sidewalk clear zones which are located on private property shall provide a permanent easement arrangement with the city to ensure public access to said zones.

(a) Public sidewalks shall be located along both sides of all streets and shall have minimum widths as specified in the Street Type Dimensions Table. Sidewalks shall consist of two (2) zones: a landscape zone and a sidewalk clear zone.

(b) *Landscape zone requirements.*

(1) Said zone shall be located immediately adjacent to the curb and shall be continuous.

(2) This zone may be used for street trees, street lights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping, or sod. Additional pavement or other similar elements shall be permitted only as approved by the planning and zoning board.

(c) *Sidewalk clear zone requirements.*

(1) Said zone shall be located immediately contiguous to the landscape zone and shall be continuous.

(2) Said zone shall be hardscape, and shall be unobstructed for a minimum height of eight (8) feet. Special paving within the sidewalk

clear zone shall be permitted only as approved by the planning and zoning board.

(3) Where newly constructed sidewalks abut narrower existing adjacent sidewalks, the newly constructed sidewalk shall provide an adequate transitional clear zone width for the purposes of providing a safe facilitation of pedestrian traffic flow between the adjacent sidewalks, as approved by the planning and zoning board.

(4) Utilities, including telephone, electric power and cable television in both public and private rights-of-way, shall be placed underground except when extreme conditions of underlying rock or other conditions prevent this requirement from being met and only as approved by the planning and zoning board.

(d) *Street tree planting requirements:*

(1) Street trees are required and shall be planted in the ground a maximum of fifty (50) feet on center or grouped one hundred and twenty (120) feet on-center within the landscape zone and spaced equal distance between street lights.

(2) All newly planted trees shall be a minimum of four (4) inches in caliper measured thirty-six (36) inches above ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of forty (40) feet, and shall be limbed up to a minimum height of ten (10) feet. Said trees shall be in proportion in height to the first floor of building.

(3) Trees shall have a minimum planting area of thirty-six (36) square feet and shall have a three-inch raised curb provided along the perimeter of the planting area. All plantings, planting replacement and planting removal shall be approved by the designated Planning and Development Director, in keeping with the City of Clarkston's tree ordinance replacement values.

(4) Tree planting areas shall provide porous drainage systems that allow for drainage of the planting area.

(5) The area between required plantings shall either be planted with sod or shall be paved as approved by the planning and zoning board. Paving within the landscape zone shall be limited to a maximum of fifty (50) percent of the total area within the landscape zone.

- (6) Physical permanent root barriers shall be required along the required street curbs to prevent roots from damaging the curbs.
  - (7) Required tree plantings may be permitted to be planted in the adjacent front yard when extreme conditions prevent the planting of street trees within the landscape zone and only as approved by the planning and zoning board.
  - (8) Street tree species shall be consistent for an entire block length. Similar species shall be permitted to change on individual block faces and only when approved by the planning and zoning board.
  - (9) Street lights or pedestrian lights in the landscape zone shall be spaced equidistant between all required street trees.
- (e) *Sidewalks disturbed by development.* Any development that disturbs existing city-funded sidewalks including the clear zone and landscape zone shall be replaced by the property owner to its pre-disturbance state and condition.

(Ord. No. 358, §§ 1, 2, 3-1-11; [Ord. No. 396, § 15, 7-5-16](#) )

Sec. 1004. - Street type dimensions.

- (a) The dimensions of all landscape zones, sidewalks, minimum building facade heights and front yards are governed by street designation and not by use or zoning district to ensure consistency and application of the streetscape requirements.
- (b) The following table shall apply for all landscape zone, sidewalk, minimum facade building height and front yard dimensions. For all lot area, maximum building height, side yard and rear yard requirements, refer to Article VII, sections 705—713 of this ordinance.
- (c) Minimum facade building height shall be measured from the sidewalk-level elevation adjacent to the building facade.

Street Type Dimensions Table	Local Streets (NR-1, NR-2, NR-3 Districts)	Local Streets (All Other Districts)	Arterials & Collectors
Landscape Zone (minimum, ft)	3'	5'	7'



Sidewalk Clear Zone (minimum, ft)	5'	5'	8'
Building Facade Height (minimum, ft)	12'	12'	18'

Sec. 1005. - Front yard.

(a) Front yard general requirements.

- (1) The square footage contained within the front yard which meets open space criteria established in section 705 may counted towards the open space requirement as required by that zoning district.
- (2) Automobile parking shall be prohibited from being located within the front yard, except where otherwise permitted in Section 1005(a)(5).
- (3) Non-residential front yards shall permit and encourage pedestrians to walk on the surface of the front yard excluding fountains, pedestrian furniture, public art and similar elements.
- (4) Residential front yards.
  - a. When sidewalk level residential units are provided, the front yard shall be landscaped with the exception of terraces, porches, stoops and walkways, which may occupy a maximum of one-half ( $\frac{1}{2}$ ) of the front yard area.
  - b. Terraces, porches and stoops shall have a maximum finished floor height of twenty-four (24) inches above finished-grade, unless existing topographical considerations render this requirement unreasonable.
  - c. Shall only permit automobile parking when located on the permitted accessory driveway asphalt or gravel surface. Said accessory driveway shall not exceed thirty-five (35) percent coverage of the total lot.
- (5) Front yards of lots within TC, NC-1, NC-2 and RC districts with a lot area of less than thirteen thousand (13,000) square feet shall be permitted to have automobile parking located within the front yard only when the following additional regulations are met:

- a. Front yard parking shall be limited in area to a maximum of thirty (30) percent of the total lot area.

( [Ord. No. 396, § 16, 7-5-16](#) )

Sec. 1006. - Building materials.

- (a) No exterior wall or facade of any building visible from any public street shall be clad in metal siding, vinyl siding, EIFS, or smooth concrete block.
- (b) No barbed wire, razor wire, chain link fence or similar elements shall be visible from any public plaza, ground level or sidewalk level outdoor dining area or public right-of-way.

( [Ord. No. 396, § 18, 7-5-16](#) )

Sec. 1007. - Relationship of building to street.

- (a) The primary pedestrian access to all sidewalk level uses and business establishments with public or private street frontage:
  - (1) Shall face and be visible from the public street when located adjacent to such street. When located adjacent to a street that functions as an arterial street or a collector street, said entrance shall face and be visible from such street.
  - (2) Shall be directly accessible and visible from the sidewalk adjacent to such street.
  - (3) Shall remain unlocked during business hours for non-residential uses, including hotels and bed & breakfast inns.
- (b) A street address number shall be located directly above the primary building entrance, shall be clearly visible from the sidewalk and shall be a minimum of six (6) inches in height.
- (c) Buildings with residential uses at the sidewalk level shall meet the following regulations:
  - (1) All primary pedestrian entrances not adjacent to a public sidewalk shall be linked to the public sidewalk with a pedestrian walkway a minimum of five (5) feet wide.
  - (2) All such buildings with more than four (4) residential units that are adjacent to the sidewalk shall have individual entrances to such units directly accessible from the sidewalk and shall open directly onto the adjacent sidewalk, park, plaza, terrace or porch adjacent to the

sidewalk. All pedestrian walkways providing such access shall be perpendicular to the street, unless topography prohibits, and shall be permitted to share said walkway with one (1) adjacent unit.

- (3) Such buildings shall have windows at sidewalk-level on each street frontage facade which are substantially similar in size to the sidewalk level front facade windows.

( [Ord. No. 396, § 19, 7-5-16](#) )

Sec. 1008. - Storefront street requirements and fenestration.

- (a) The following table designates certain streets and roads in Clarkston as Storefront Streets.

Street	Functional Classification (GDOT 2005)	Store Front Street Designation
East Ponce de Leon Avenue	Minor Arterial	from N. Indian Creek Dr. to West Smith Street
North Indian Creek Drive	Collector Street	from E. Ponce De Leon Ave. to Sams Rd.
Montreal Road (from N. Indian Creek Dr. to City Limit)		
Market Street	Local Street	from E Ponce De Leon Ave to N Indian Creek Dr
Local Streets in Single-Family Residential Districts	Local Street	N/A
Local Streets in all other districts	Local Street	N/A

- (b) All uses that front Storefront Streets, with the exception of religious institutions and fire stations, shall meet the following sidewalk level requirements:

- (1) The first floor shall have a minimum floor-to-ceiling height of fifteen (15) feet.

- (2) Sidewalk level uses with street frontage on the Storefront Streets shall only be retail or office. Said uses shall be provided for a minimum depth of twenty (20) feet from any building facade along the public sidewalk.
- (3) The length of facade without intervening fenestration or entryway shall not exceed twenty (20) feet.
- (4) Fenestration shall be provided for a minimum of sixty-five (65) percent of the length of all street frontages:
  - a. Beginning at a point not more than three (3) feet above the sidewalk, to a height no less than ten (10) feet above the sidewalk; or
  - b. Beginning at the finished floor elevation to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is three (3) or more feet above the sidewalk; or
  - c. Beginning at a point not more than sidewalk level, to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is below the sidewalk.
- (5) Fenestration shall not utilize painted glass, reflective glass or other similarly treated or opaque windows. Entrances may be counted towards fenestration requirements.
  - a. Fenestration shall be provided for a minimum of fifty (50) percent of the length of the street frontage for residential uses on all streets and for non-residential uses, with the exception of religious institutions and fire stations, on all streets other than streets that function as arterial streets and collector streets.
  - b. Parking decks and structures located along storefront streets shall meet all of the above requirements. See section 1106 for additional requirements for parking decks.

Sec. 1009. - Site design.

(a) *Blocks and street infrastructure.*

- (1) Non-residential developments with more than six hundred (600) feet of frontage along a single street shall be divided by streets into blocks having a maximum length of six hundred (600) feet, as measured from street curb to street curb.
- (2) Streets used to divide properties into blocks shall meet all of the street and sidewalk designations of this zoning ordinance.

- (3) Opportunities for inter-parcel vehicle access points between all contiguous commercial, office, industrial or multi-family residential tracts shall be provided.
- (4) Streets with greater than two hundred and fifty (250) total linear feet of un-intersected street frontage shall be prohibited from terminating with a cul-de-sac.
- (5) Gates and security arms shall be prohibited from crossing any public street or sidewalk.

(b) *Pedestrian and bicycle pathways.*

- (1) Pathways shall form a logical, safe and convenient system for pedestrian access to all dwelling units and other buildings and facilities.
- (2) Pathways shall be so located and safeguarded as to minimize contacts with automotive traffic.
- (3) Pathways that are appropriately located, designed and constructed may be combined with other easements and used by emergency and service vehicles, but shall not be used by other automotive traffic.

(c) *Automobile uses.*

- (1) Drive-through service windows and drive-in facilities shall not be located between a building and the street.
- (2) Gasoline fuel dispenser structures and associated vehicular services such as air pumps and car washes shall not be located between a building and the street.

(d) *Screening of dumpsters, loading areas and mechanical systems.*

- (1) All dumpsters shall be enclosed with a wall of equal or greater height on three (3) sides, the material of which shall be similar to the material on the outside of the main building.
- (2) Dumpsters shall be placed in the rear yard and may be located five (5) feet from the property line if the adjoining property is zoned non-residential and five (5) feet from all applicable buffers if the adjoining property is zoned residential.
- (3) Loading areas shall not face any public street.
- (4) Loading dock entrances for non-residential uses shall be screened so that loading docks and related activity are not visible from the public right-of-way.

- (5) Loading and dumping activities located within one hundred and fifty (150) feet of a single-family residential property shall only be permitted to undertake said activities during normal business hours (7:00 a.m.—1:00 p.m.).
- (6) Accessory mechanical systems and features including air and heating systems shall not be visible from the public right-of-way.

Sec. 1010. - Proportion and scale for multi-family and non-residential uses.

The following requirements shall apply to all multi-family and non-residential development, including parking decks structures:

- (a) *Building massing*: All new development proposals shall incorporate means of reducing the apparent size and bulk of the building. The following methods for reducing the apparent size and mass of larger buildings shall be required.
  - (1) *Discontinuous building massing*: Every building shall reduce its perceived height and bulk by dividing the building mass into smaller scale components. Building walls exceeding one hundred (100) continuous linear feet shall utilize offsets, such as projections, recesses, and changes in floor level, to add architectural interest and variety, and to relieve the negative visual effect of a simple long wall.
  - (2) *Variation in building silhouettes*: Variation in the roofline of buildings and offsets in pitched roofs and gables shall be required. Parapets in building masses exceeding one hundred (100) continuous linear feet shall be varied in height and projection and shall use decorative elements such as crown moldings, dental, brick soldier courses, or similar detail.
  - (3) *Building step backs*: Buildings in excess of fifty (50) feet in height shall be required to step back that portion of the building greater than fifty (50) feet in height a minimum linear distance of ten (10) feet away from the building facade located below the fifty (50) foot height plane as described in section 1004.

Sec. 1011. - Lighting.

(a) *General provisions*.

- (1) The purpose of these criteria is to create standards for outdoor lighting which will provide nighttime safety, security and utility, while reducing light pollution and light trespass, and increase conservation of energy.

- (2) Any lighting used to illuminate parking areas, access drives or loading areas shall be of such a design or level of illumination so as to minimize the amount of ambient lighting perceptible from adjacent properties and that would impair the vision of motorists.
- (3) The Illuminating Engineering Society of North America (IESNA) Lighting Handbook, Ninth Edition, shall be used as a guide for lighting installations. The definitions in this handbook shall be used for technical terminology.

(b) *Lighting standards.*

- (1) Entrances into developments from a street may be lighted for traffic safety reasons provided such lighting does not exceed the foot candle requirements for lighting walkways and streets.
- (2) Lighting poles mounted on private property within fifty (50) feet from the street right-of-way may not exceed a height of sixteen (16) feet.
- (3) Accent lighting for building facades and other vertical structures shall be directed solely onto the building or structure and not toward the sky or onto adjacent properties. Direct light emissions shall not be visible above the roofline or beyond the building's edge. Shielding shall be provided to restrict light to the object being accented.
- (4) All pole mounted fixtures shall be mounted parallel to the ground. Building mounted floodlights shall be direct cutoff type and set parallel to the ground.
- (5) All interior lighting shall be designed to prevent the light source or high levels of light from being visible from the street.
- (6) Lighting for uses adjacent to residentially zoned property shall be designed and maintained such that illumination levels do not exceed 1.0 foot-candles along property lines. Lighting for uses adjacent to non-residentially zoned property shall be designed and maintained such that illumination levels do not exceed 3.0 foot-candles along property lines.
- (7) The use of search lights, laser lighting, LED lighting in the forms of channel strips, ropes or similar configurations, or lights that pulse, flash, rotate or simulate motion for advertising or promotions is prohibited.
- (8) All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

a. Fixtures.

- i. Any wall or pole-mounted light fixture shall be a cutoff luminaire whose source is completely concealed with an opaque housing and shall not be visible from any street. The light output of the fixture shall be 2.5 percent or less of the total output at ninety (90) degrees from the vertical plane and ten percent or less of total output at eighty (80) degrees from the vertical plane.
- ii. Light fixtures for canopies covering fueling stations and at individual drive-through facilities shall be mounted such that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy. The light output of the fixture shall be 2.5 percent or less of the total output at 90 degrees from the vertical plane and ten (10) percent or less of total output at eighty (80) degrees from the vertical plane.

b. Lamps. For parking lot and site lighting, the same type of lamp must be used for the same or similar type of lighting on any one site or development. All exterior luminaires that operate at greater than one hundred (100) watts shall contain lamps having a minimum efficacy of sixty (60) lumens/watt unless the luminaire is controlled by a motion sensor.

- i. Illumination levels. All site lighting shall be designed so that the level of illumination as measured in foot-candles (fc) at any one point meets the following standards. Minimum and maximum levels are measured at any one point. Average level is not to exceed the specified limit by more than twenty (20) percent, and is derived using only the area of the site included to receive illumination. Points of measure shall not include the area of the building or areas which do not lend themselves to pedestrian traffic. Also, if the major portion of the lighting design is to be in the front of a building, the average level should not be affected by additional lighting in the back of the same building, which would raise the average of the intended area for lighting. Illumination levels are as follows:

Location or Type of Lighting	Minimum Level (fc)	Average Level (fc)	Maximum Level (fc)
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Advertising Sign	N/A	N/A	20.0
Walkways and Streets	0.6	1.0	10.0
Areas for Display of Outdoor Merchandise	1.0	5.0	15.0
Commercial Parking Areas	1.0	5.0	15.0
Multi-family Residential Parking Areas	1.0	5.0	15.0
Building Entrance	2.0	10.0	50.0
Gas Station Pump Areas	6.0	15.0	50.0

- c. Methods of measurement Horizontal illumination levels shall be measured at ground level by a light meter certified by its manufacturer as being calibrated in accordance with standards of the National Institute of Standards and Technology. Maximum illumination readings must be taken directly beneath the luminaire. Vertical illumination readings shall be taken on the surface of the object being lighted or at five (5) feet above the ground for pedestrian areas.
- d. Exemptions.
- (i) Decorative seasonal lighting for festivals and holidays with a power rating of seventy-five (75) watts or less.
  - (ii) Temporary emergency lighting used by police, firefighters, or other emergency services.
  - (iii) Hazard warning luminaires or safety or security lighting required by regulatory agencies or state or federal law.
- e. Requirements for submittals.
- (i) Site lighting plans shall be submitted for planning and zoning commission review and approved for any new lighting installations. Plans shall be at a scale to allow the reviewer to determine conformance with this chapter, such as 1" = 20' or 1" = 40'.

- (ii) Site lighting plans shall include:
  - a. Location and mounting information for each light.
  - b. Illumination calculations showing light levels in foot candles at points located on a ten-foot or smaller grid, including an illustration of the areas masked out per the requirements above regarding points of measurement.
  - c. A fixture schedule listing fixture design, type of lamp, and wattage of each fixture, and number of lumens after using 85 percent depreciation of initial output for both metal halide and high pressure sodium.
  - d. Manufacturer's photometric data for each type of light fixture.
  - e. An illumination summary, including the minimum, average and maximum foot-candles calculations.

( [Ord. No. 396, § 20, 7-5-16](#) )

#### ARTICLE XI. - PARKING AND LOADING REQUIREMENTS

Sec. 1101. - Off-street parking and loading spaces required.

- (a) It is the intent of this zoning ordinance that all buildings, structures, and uses of land shall provide off-street parking and loading space in an amount sufficient to meet the needs caused by the building or use of land and that such parking and loading spaces are so oriented that they are readily useable for such purposes.
- (b) Each use of land and each building or structure hereafter constructed or established shall provide off-street parking and loading according to the standards set forth herein. When an addition is proposed to a building that is nonconforming as to parking or loading requirements, a conforming amount of parking or loading shall be supplied based upon the size of the addition.
- (c) No addition to an existing building shall be constructed which reduces the number of spaces, area, or usability of existing parking or loading space unless such building and its addition conform with the regulations for parking and loading contained herein.
- (d) Off-street parking shall incorporate handicapped spaces into the design of parking facilities.

Sec. 1102. - Design standards.

The following design requirements shall apply to all off-street parking spaces, driveways, and loading spaces.

(a) *Parking Spaces.*

- (1) Off-street surface parking shall not be located between a building and the street without an intervening building, except where otherwise permitted in section 904 (b)(6) and 1005(a)(5).
- (2) Required dimensions for each parking space. Each automobile parking space shall be not less than nine (9) feet wide and eighteen (18) feet deep. Parking spaces for compact cars shall not be less than eight (8) feet wide and fifteen (15) feet deep. Adequate interior driveways shall connect each parking space with a public right-of-way.
- (3) Surfacing, drainage and lighting. All off-street parking spaces, access and interior driveways shall be provided with a paved, dust free surface. If the off-street parking facilities are used at night, they shall be properly illuminated for the safety of pedestrians, vehicles and for security. The lighting shall be designed so as not to reflect onto or cause glare in any adjacent residential district.
- (4) Striping and marking.
  - a. All pavement markings intended to delineate off-street parking spaces shall be striped with durable reflective striping designed for that purpose.
  - b. All handicapped spaces shall be striped and marked in accordance with applicable federal and state standards.

(b) *Compact parking spaces.*

- (1) Developments where thirty (30) or more parking spaces are provided shall have the option to allot up to twenty (20) percent of the parking spaces as compact parking spaces.
- (2) Compact parking spaces shall be identified by pavement markings and/or by appropriate signage.

(c) *Bicycle parking.*

- (1) Developments in all TC, NC-1, and NC-2 and RC districts shall provide bicycle parking racks at a ratio of at least one (1) bicycle parking space for every twenty (20) automobile parking spaces.

- (2) No development shall have fewer than three (3) bicycle parking spaces nor be required to exceed a maximum of thirty (30) spaces.
- (3) Bicycle parking spaces shall be located within the landscape zone a maximum distance of one hundred (100) feet from the building entrance, or shall be located at least as close as the closest automobile space and shall provide a concrete pad upon which the bicycle parking space shall be firmly rooted.

(Ord. No. 351, § 1, 12-8-10)

Sec. 1103. - Driveways and curb cuts.

Driveways and curb cuts shall meet the following criteria:

- (a) Interior driveway. Where ninety (90) degree parking is utilized, all interior driveways shall be a minimum of twenty two (22) feet in width. If forty five (45) or sixty (60) degree angle parking is used, then interior driveways shall be at least twelve (12) feet in width for one-way traffic and twenty two (22) feet in width for two-way traffic. Where parallel parking is utilized or there is no parking, interior driveways shall be a minimum of ten (10) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic.
- (b) All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent sidewalk clear zone. A corresponding interior sign or painted bar on the driveway shall be provided adjacent to the sidewalk paving as it intersects the driveway which shall communicate that vehicles must stop or yield for the intervening sidewalk.
- (c) Driveway curb cut widths shall be a maximum of twenty-four (24) feet for two-way entrances and twelve (12) feet for one-way entrances, unless otherwise permitted by the DeKalb or Georgia Department of Transportation. For the purposes of this section, two (2) curb cuts serving two one-way driveways shall only be counted as one (1) curb cut provided that each curb cut does not exceed one (1) lane in width.
- (d) Driveway curb cuts on any street that functions as an arterial street or collector street are permitted only when access cannot be provided from a side or rear street located immediately adjacent to a contiguous property, with the exception of hotel patron drop-off drives.

- (e) Driveways, except for a driveway to reach the side yard or rear yard or an on-site parking facility, are not permitted between the sidewalk and a building, and shall be perpendicular to any adjacent street.
- (f) No more than one (1) curb cut shall be permitted for each development, provided that properties with more than one (1) street frontage may have one (1) curb cut located on each street frontage. However, developments on properties with a single street frontage greater than four hundred (400) feet shall be permitted two (2) curb cuts along one street frontage provided that each curb is at least 300 feet apart.
- (g) A common or joint driveway may be authorized by the planning and development commission.
- (h) All developments shall have pedestrian walkways a minimum width of five (5) feet connecting ground level parking to the public sidewalks and to all building entrances.

Sec. 1104. - Parking area landscaping requirements.

Interior landscaping for parking areas shall be required for all parking lots designed for according to the requirements of section 1213.

Sec. 1105. - Parking decks and parking structures.

The following regulations shall apply to parking decks and parking structures:

- (a) Parking deck facades shall conceal automobiles from visibility from any public right-of-way or private drive or street that are open to the general public, and shall have the appearance of a horizontal storied building.
- (b) All parking decks and parking structures shall have pedestrian walkways a minimum width of five (5) feet connecting ground level parking to the public sidewalks and to all building entrances.
- (c) All parking decks and parking structures shall have a landscape strip a minimum width of six (6) feet immediately contiguous to the parking facility for the whole of the exterior perimeter of the parking facility containing at least one (1) understory or overstory tree, as appropriate, and ten (10) shrubs per fifty (50) linear feet, and a minimum of ninety (90) percent living groundcover, sod, and/or annual or perennial color in the landscape strip surface area.

Sec. 1106. - Interpretations.

- (a) Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be construed to be the next highest whole number.
- (b) Where the parking requirement for a particular use is not described in this article, and where no similar use is listed, the Planning and Development Director with the approval of the City Managers shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, total square footage, potential customer use, and other expected demand and traffic generated by the proposed use. In making any such determination, the Planning and Development Director with the approval of the City Managers shall follow the principles set forth in the statement of purpose at the beginning of this article.

Sec. 1107. - Minimum off-street parking requirements.

The following are the minimum number of off-street parking spaces required by type of permitted use. The square footage is the gross square footage unless otherwise indicated.

- (a) The total number of permitted parking spaces shall not exceed one hundred ten (110) percent of the minimum number of off-street parking spaces required by type of permitted use.
- (b) All surface parking provided in excess of one hundred (100) percent of the minimum number of off-street parking spaces required by type of permitted use shall be of porous paving or grass paving systems and as approved by the planning and zoning board.
- (c) The minimum number of off-street parking spaces required by use are as follows:

Use	Number of Spaces Per Unit
<b>Commercial:</b>	
Automotive sales	1 space per 150 sq. ft.
Automotive service garages	3 spaces per service bay with a minimum of 10
Beauty and barber shops	3 spaces per operator
Commercial, manufacturing and industrial not for retail	1 space per 2,000 sq. ft. of gross office, plant and storage area
Convenience store	1 space per 200 sq. ft. of gross floor area

Grocery or food stores	1 space per 250 sq. ft. of gross floor space
Furniture and appliances	1 space per 500 sq. ft. of space
Gasoline service stations	2 spaces per gas pump, plus 3 spaces per service bay, plus 1 space for each attendant
Hotel and motel	1 space per unit, plus 1 space per 5 units for visitors, plus 1 space per 2 employees on the same shift
Hotel and motel with meeting rooms or banquet facilities	1 space per unit, plus 1 space per 5 units for visitors, plus 1 space per 2 employees on the same shift, plus 1 space per 200 sq ft of accessory use
Recreation—Subdivision recreation area	1 space per 10 dwelling units
Recreation—Commercial and public	1 space per 200 sq. ft. of recreational space with 20 spaces minimum
Restaurants and taverns	1 space per 3 seats or 100 sq. ft. if no seats are provided, plus 1 per employee on the largest shift with a minimum of 10
Retail stores	1 space per 250 sq. ft. of gross floor space
Shopping centers	5 spaces per 1,000 sq. ft. of gross floor area
Small item service and repair shops	1 space per 250 sq. ft. of gross floor area
Wholesale stores	1 space per 200 sq. ft. of gross floor area, plus 1 space 2000 sq. ft. of gross storage area
<b>Institutional:</b>	
Religious institutions, other places of worship and funeral parlors	1 space per 3 seats in the main assembly area or 1 space per 250 sq. ft. where fixed seats are not provided
Social organizations including lodges and fraternal organizations	1 space per 250 sq. ft.

Hospitals or group homes	1 space per 2 beds, plus 1 space for each employee on the largest shift
Libraries, galleries, and similar uses	1 space per each 400 sq. ft. of gross space to which the public has access
Places of public assembly	1 space per 3 seats or 1 space per 250 sq. ft. where fixed seats are not provided
Schools (elementary and middle schools)	2 spaces per classroom, plus 1 space per teacher and employee, plus 1 space per 100 sq. ft. of seating space in the auditorium(s).
Schools (high schools)	2 spaces per classroom, plus 1 space per teacher and employee, plus 1 space per 100 sq. ft. of seating space in the auditorium(s), plus 1 space per 10 students
Schools (colleges, universities or adult education facilities)	10 spaces per classroom
Daycare or nursery	3 spaces per 1,000 sq. ft.
<b>Offices:</b>	
Offices—Government, banks, professional, general	1 space per 250 sq. ft.
Medical and dental offices	6 spaces per practitioner
<b>Residential:</b>	
Apartments, townhomes, condominiums, and other multifamily attached uses	2 spaces per dwelling unit
Boarding or rooming houses	1 space per bedroom
Cottage housing	1.25 to 2.0 spaces per dwelling unit as regulated in section 904
Residences including single-family, duplexes, triplexes	2 spaces per dwelling unit



Senior citizen independent living facility	1 space per unit
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(d) Additional requirements for non single-family districts. All required off-street parking facilities (other than those for single-family dwellings), including entrances, exits, and maneuvering areas, shall comply with the following provisions. Each parking facility:

- (1) Shall have access to a public street;
- (2) Shall be graded and paved, including access drive(s), and be curbed when needed for effective drainage control;
- (3) Shall have all spaces marked with paint lines, curb stones or other similar devices;
- (4) Shall be drained so as to prevent damage to abutting properties or public streets and where possible shall be drained towards infiltration swales located in the five-foot head-to-head landscape strips required between vehicles in section 1205(f).
- (5) To the extent practicable, adjacent parking lots serving nonresidential or mixed-use buildings shall be interconnected and shall provide for future interconnectivity.
- (6) Shall have adequate lighting if the facilities are to be used at night, provided such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties;
- (7) Shall be designed to conform to the geometric design standards of the institute of traffic engineers;
- (8) Wheel bumpers shall be placed at the head of all parking spaces that abut a landscape strip or sidewalk. When wheel bumpers are adjacent to a sidewalk, a two-foot extension of the sidewalk shall be permitted to be substituted in the place of the required wheel bumpers.
- (9) No parking area may be used for the sale, repair, dismantling, servicing or long term storage of any vehicles or equipment unless such use is permitted within the district in which the parking area is located.

(10) Location on other property. If the required automobile parking spaces cannot be reasonably provided on the same lot on which the principal use is conducted, such spaces may be provided on adjacent or nearby property within the same zoning district, provided a major portion lies within twelve hundred (1,200) feet of the main entrance to the principal use for which such parking is provided. A written agreement among all owners of record shall be provided and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk.

( [Ord. No. 396, § 17, 7-5-16](#) )

Sec. 1108. - Shared or reduced parking standards.

Reduced parking for NR-1, NR-2, and NR-3 districts shall be prohibited. For all other districts, the applicant may request a reduction to or waiver of parking standards based on the following criteria:

- (a) Reduction of parking requirements through a shared parking arrangement may be permissible only through the permission of the mayor and city council provided the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access.
- (b) A to-scale map indicating location of proposed parking spaces shall be provided.
- (c) A shared parking calculation projection shall be provided that demonstrates that each use will have adequate parking provisions at all times. The process for determining the minimum parking requirements for a mixed-use development or for contiguous properties containing multiple uses is:
  - (1) Determine the minimum number of parking spaces required for each use category from section 1107 of this article.
  - (2) Multiply each parking requirement by the corresponding percentage for each of the time periods shown on the table below.
  - (3) Total the number of parking spaces for each of the time periods (that is, add together all of the numbers in each column).
  - (4) The largest column total is the minimum shared parking requirement for the development or collectively for the contiguous properties.

TABLE: SHARED PARKING SPACE REQUIREMENTS

Use	Weekdays		Weekends	
	Daytime 6 a.m.—5 p.m.	Evening 5 p.m.—1 a.m.	Daytime 6 a.m.—5 p.m.	Evening 5 p.m.—1 a.m.
Residential	80%	100%	80%	100%
Office	100%	10%	20%	5%
Retail	95%	85%	100%	70%
Hotel	60%	100%	60%	100%
Restaurant	75%	100%	60%	100%
Entertainment	50%	85%	70%	100%
Church	50%	50%	100%	60%

- (d) For contiguous properties sharing parking spaces under this provision, cross-easements shall be filed establishing access to the parking spaces in perpetuity.
- (e) A reduction in the number of parking spaces that would otherwise be required for each of the various uses on a multiple-use property must be clearly shown on the development plan. If shared parking is proposed for a combination of contiguous properties, a plan must be submitted covering all of the properties that will be sharing the parking spaces.
- (f) A written agreement among all owners of record shall be provided and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk.
- (g) One-half (1/2) of the off-street parking spaces required by a use whose peak attendance will be at night or on Sundays may be shared with a use that will be closed at night or on Sundays.

Sec. 1109. - Handicapped parking requirements.

Handicapped parking spaces shall meet the following criteria:

- (a) Handicapped Spaces. Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act. All handicapped spaces shall be identified by pavement markings and by appropriate signage. Handicapped parking shall be required on all multi-family and non-residential sites.
- (b) Handicapped parking spaces shall be located in the closest proximity to major building entrances, but in no event shall such spaces be located more than one hundred (100) feet from a major building entrance.
- (c) Handicapped parking spaces shall be a minimum of eight (8) feet in width by twenty (20) feet in length and shall have an adjacent access aisle with a minimum width of five (5) feet. Two (2) accessible parking spaces may share a common access aisle.
- (d) The first one (1) out of every eight (8) accessible parking spaces shall be a van accessible space. Van parking spaces shall have an adjacent access aisle a minimum of eight (8) feet in width and a vertical clearance of at least eight (8) feet along the vehicular route to the parking space.
- (e) Handicapped parking will be required on all sites. The minimum number to be provided for all multifamily and nonresidential developments is as follows:

Number of Spaces in the Parking Lot	Required Number of Handicapped Spaces
0—25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6

201— 300	7
301— 400	8
Over 400	2% of Total Spaces

Sec. 1110. - Minimum off-street loading requirements.

When required, one (1) or more off-street loading stalls shall be provided on the same or adjoining premises with the facility it serves, either inside or outside a building or structure. A loading berth shall have minimum dimensions of twelve (12) feet wide and thirty five (35) feet deep with an overhead clearance of fourteen (14) feet. A loading space need not be a full berth but shall be sufficient to allow normal loading of a magnitude appropriate to the use served. However, in no case shall such space or its use hinder or obstruct the free movement of vehicles, and pedestrians over a street, sidewalk or alley.

- (a) The following design requirements shall apply to all off-street loading stalls.
  - (1) *Access.* All off-street loading stalls shall have access from an alley, or if there is no alley, from a public street.
  - (2) *Surfacing, drainage and lighting.* All off-street loading stalls and access shall be provided with a paved, dust free surface. If loading stalls are to be used at night, they shall be properly illuminated for the safety of pedestrians, vehicles and for security. Lighting shall be designed to preclude light spill onto adjacent properties.
  - (3) *Location.* The off-street loading and unloading stalls shall be located to cause a minimum of interference with the free movement of vehicles and pedestrians over a street, sidewalk or alley.
- (b) The following are the minimum number of off-street loading stalls required by type of permitted use. Square footage is the gross amount unless otherwise indicated.

- (1) Retail operations and all first floor nonresidential uses with a gross floor area of two thousand five hundred (2,500) square feet or less: One (1) loading space which may be located adjacent to the street curb.
- (2) Retail operations, and all first floor nonresidential uses, with a gross floor area of greater than two thousand five hundred (2,500) square feet and less than twenty thousand (20,000) square feet, and all wholesale and light industrial operations with a gross floor area of less than ten thousand (10,000) square feet: One (1) loading space.
- (3) Retail operations, including restaurant and dining facilities within hotels and office buildings, with a total usable floor area of twenty thousand (20,000) square feet or more devoted to such purposes: One (1) loading berth for every forty thousand (40,000) square feet of floor area or fraction thereof; one (1) loading space for every twenty thousand (20,000) square feet of floor area or fraction thereof.
- (4) Office buildings and hotels with total usable floor area of one hundred thousand (100,000) square feet or more devoted to such purposes: One (1) loading berth for every one hundred thousand (100,000) square feet of floor area or fraction thereof.
- (5) Industrial and wholesale operations with a gross floor area of ten thousand (10,000) square feet or over shall conform to the following schedule:

Gross Floor Area	Required Loading Berths
10,000—49,000 square feet	1
49,000—100,000 square feet	2
100,000—160,000 square feet	3
160,000—240,000 square feet	4

240,000—320,000 square feet	5
320,000—400,000 square feet	6
Each 90,000 above 400,000 square feet	1

- (c) This space may be shared by up to four (4) adjacent users by contractual arrangement specifying details of the sharing, a copy of which is to be provided to the mayor or his/her designee.
- (d) Applicants may request a reduction to or waiver of loading requirements. The reduction of loading requirements may be permissible only through the permission of the mayor and city council provided the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access. When loading berths are shared by numerous users, those users shall provide a contractual arrangement specifying details of the shared arrangement to the mayor or his/her designee.

Sec. 1111. - Automobile rental establishment parking requirements.

Automobile rental establishments, where permitted, shall park all automobiles for lease in marked spaces that are separate and over and above in number from the required parking spaces for rental business establishments.

Sec. 1112. - Automobile wash services parking requirements.

Automobile wash services, where permitted as a principal use, shall provide a paved area located on the same lot for the storage of vehicles awaiting service. Said space shall be adequate in size to accommodate the number of vehicles equal to one-third ( 1/3 ) of the practical hourly capacity of the washing facilities. The preceding space requirements do not apply to automobile service stations which provide automobile wash services as an accessory use.

Sec. 1113. - Multi-wheeled vehicle and bus parking.

Automotive vehicles having more than four (4) wheels, major recreational equipment, school, and other buses are prohibited from parking on residential streets or within public rights-of-way. This section shall not apply

to vehicles that park or stand in residential districts for less than eight (8) hours unless engaged in the loading or unloading of the vehicle nor shall it apply to franchised or regulated utility vehicles. See also Ch. 18, Traffic of this Code.

Sec. 1114. - Parking and storage of certain vehicles.

In all residential zoning districts the parking or storage of any vehicle larger than a pickup truck, larger than a van, or in excess of two thousand (2,000) pounds load capacity as identified or defined by the manufacturer (other than recreational vehicles) is prohibited except when the following provisions apply:

- (a) Such vehicle may park within a fully enclosed structure that meets all other criteria of the zoning district.
- (b) Such vehicle may park on the side or to the rear of the primary residential structure on the lot provided that the lot is three (3) acres or larger, but in no case may be closer than one hundred (100) feet from any property line.

This section shall not apply to vehicles that park or stand in residential zoning districts for less than eight (8) hours unless engaged in the loading or unloading of the vehicle.

Sec. 1115. - Parking in residential districts.

Parking any automobile, motorcycle, motor vehicle or trailer shall not be allowed in the front yard, side yard or rear yard of a residence unless said automobile, motorcycle, motor vehicle or trailer is parked on a concrete, asphalt or gravel driveway or parking area. It shall be unlawful to park any automobile, motorcycle, motor vehicle or trailer on the grass, lawn or dirt areas in the yard of any residence located within the corporate boundaries of the City of Clarkston.

Sec. 1116. - Parking, storage, or use of major recreational equipment.

For the purpose of this ordinance, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automobile vehicles), motorized dwellings tent trailers, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. Such major recreational equipment may be parked or stored in side or rear yards or in a carport or enclosed buildings, provided however, that such equipment may be parked anywhere on residential premises for a period of not more than twenty four (24) hours during loading or unloading. In the case of a corner



lot, no such equipment may be parked or stored in the side yard on the street side of the lot. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

If the lot topography and/or location or size of existing residential structure prevent access to any potential parking area in the side or rear yards of the lot, major recreational equipment may be parked and stored in the required front yard of the lot subject to being located on a concrete, asphalt or gravel driveway or parking area.

Sec. 1117. - Reduction in front yard setback.

In the NC-2 district only, fifty (50) percent reduction in the required front yard setback is allowed when all required parking is located exclusively in the rear yard of the parcel.

(Ord. No. 375, § 10, 10-1-13; [Ord. No. 396, § 21, 7-5-16](#) )

Sec. 1118. - Reductions in required parking.

Reduced parking requirements may be aggregated to include reductions based on any of the following factors, with a maximum parking reduction of twenty-five (25) percent for any zoning district.

- (a) In commercial districts including TC, NC-1, NC-2, and RC, the following reductions in required parking can be applied.
  - (1) When an existing site without vehicular interconnection is retrofitted to provide permanent access to adjacent sites' parking, a ten-percent reduction in the number of required parking spaces shall be allowed.
  - (2) Developments wherein the front door is located within two hundred fifty (250) feet of a public transit stop shall be allowed a ten-percent reduction in the required number of parking spaces.
  - (3) Mixed use developments that include residential and commercial uses integrated into one structure shall be allowed a ten-percent reduction in the required number of parking spaces.
- (b) Development within the TC district shall be allowed a ten percent reduction in the required number of parking spaces.

(Ord. No. 375, § 11, 10-1-13; [Ord. No. 396, § 22, 7-5-16](#) )

Sec. 1119. - Pervious parking bonus.

In the NC-2 district only, for every full size parking space required by section 1107 of this article that is paved with pervious paving as defined in Article IV, an additional fifty (50) square feet of floor area shall be permitted.

(Ord. No. 375, § 12, 10-1-13; [Ord. No. 396, § 23, 7-5-16](#) )

## ARTICLE XII. - BUFFER, SCREENING AND LANDSCAPE REQUIREMENTS

Sec. 1201. - Purpose.

The purpose of this article is to ensure and facilitate the preservation and/or replacement of trees and landscaping as part of the land development process within Clarkston and to provide minimum landscape, buffer and screening standards for commercial developments in the city so as to enhance architectural features, improve energy efficiency, improve water quality, reduce environmental damage, reduce urban heat island effect, provide quality wildlife habitat, control of soil erosion and aesthetics and to provide a scenic amenity within Clarkston. In addition to the regulations set forth herein, the regulations in The Clarkston Tree Protection Plan shall also apply. All tree protection plans and landscape plans submitted to meet city requirements shall be prepared and stamped by a Georgia licensed landscape architect, provided however that an architect or engineer may also provide such plans if knowledgeable in landscape architectural design and/or tree protection plan preparation.

Sec. 1202. - Buffer required.

The mayor and city council recognize that the location of non-residential land uses directly adjacent to single-family, two-family, or multiple-family residential uses can create an incompatible situation. Similarly, the location of two-family or multiple-family land uses directly adjacent to single-family land uses can also create an incompatible situation.

Sec. 1203. - General buffer requirements.

A planted or natural buffer strip is required to protect single-family, two-family, and multiple-family residential land uses from negative impacts such as litter, dust, wind, light spill, noise, unsightly views, and other characteristics commonly associated with non-residential land uses and related vehicular and pedestrian traffic which adversely impact the quality of residential life. The required buffer shall provide necessary visual and acoustical privacy for the conduct of residential uses in an undisturbed environment and shall assist in the protection and preservation of property values in residential districts.

Required buffer strips shall be established and maintained by the owner of the non-residential land use. The required buffer strip shall:

- (1) Be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.
- (2) Not be disturbed by grading, property improvements or construction activities except where necessary to prevent a nuisance, or to thin such natural growth where too dense to permit normal growth, or to remove diseased, misshapen, or dangerous and decayed timbers, or any similar city approved enhancement. Any contemplated disturbance shall first be brought to the attention of the city and formal approval secured prior to initiating activity within the required buffer areas.
- (3) Utilize existing vegetation where the city has determined that existing vegetation is appropriate for inclusion within the buffer strip, or when required, be supplemented with approved, additional plantings.
- (4) Be completely installed in accordance with the approved plan prior to issuance of a certificate of occupancy.
- (5) Not be used for temporary or permanent parking or loading other than for provision of drainage improvements as mandated by local law, or for a structure other than a fence.
- (6) Be planted and maintained in a healthy, growing condition by the property owner.
- (7) Not extend nearer to a street right-of-way line than the established building setback line of the adjoining lot.
- (8) Preserve the natural topography of the land and shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin such natural growth where too dense for normal growth, or to remove diseased, misshapen, or dangerous and decayed timbers. However, a slope easement may be cleared and graded where required to prevent soil erosion; provided such easement shall be immediately replanted upon completion of easement improvements.

Sec. 1204. - Reserved.

**Editor's note**— Ord. No. 375, § 13, adopted Oct. 1, 2013, repealed former § 1204 in its entirety which pertained to minimum buffer specifications and derived from Ord. No. 325, § 1, adopted April 23, 2007.

Sec. 1205. - Buffers and landscaping.

(a) Existing conditions.

- (1) In those instances where the existing natural vegetation and topography are insufficient to achieve the desired level of screening as required by this article, a planted buffer shall be provided and shall consist of plant material of such growth characteristics as will provide an opaque acoustical and visual screen having a height of not less than six (6) feet at the time of planting and planted in a minimum of two (2) rows, with staggered on center spacing such that a continuous opaque screen is created within two (2) years of planting.
- (2) Existing natural vegetation and topography within a buffer shall be preserved and protected with a five-foot setback required along the buffer.

(b) Materials and ratios.

- (1) *Plant materials.* Buffers shall contain a minimum of seventy-five (75) percent of evergreen plant materials comprised of at least three (3) different species for every fifty (50) linear feet and a maximum of twenty-five (25) percent of deciduous plant materials. Plant species shall be native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and obtained from nurseries in USDA hardiness zones 6 or 7.
- (2) *Planting ratios.* One (1) tree shall be planted for every fifty (50) square feet of buffer area and five (5) shrubs shall be planted for every fifty (50) square feet of buffer area.

(c) The following plants shall be approved for such purpose but shall not be exclusive of other plants which may be suitable, provided that they can form a hardy screen, dense enough and high enough both to interrupt vision and to diffuse the transmission of sound:

PLANTS AND SHRUBS

Common Name	Scientific Name
Glossy or common Abelia	Abelia grandiflora
Andromeda varieties	Pieris species
Jap Aucuba	Aucuba Japonica

Indicum, Piedmont, Flame, and other large or native azalea species	Azalea indicum, calendulaceum
Wintergreen Barberry	Berberis juliana
Camellia varieties	Camellia japonica or sassanqua
Eastern Red Cedar or other large juniper species	Juniperus virginiana
Yoshino Cryptomeria	Cryptomeria japonica
Leyland Cypress	Cupressocyparis x leylandii
American Holly varieties	Ilex opaca
Burford Holly	Ilex Burfordii
Yaupon Holly varieties other than dwarf	Ilex vomitoria
Cherry Laurel	Prunus Caroliniana
Loropetalum chinese	Chinese Loropetalum
Southern Magnolia	Magnolia Grandiflora
Leatherleaf Mahonia or Oregon Hollygrape	Mahonia bealeii or aquifolium
Fragrant Tea Olive	Osmanthas Fragrans
Raphiolepis umbellata	Yeddo Hawthorn
Native Rhododendron varieties	Rhododendron carolinianum or maximum
White Pine	Pinus Strobus

- (d) Substitute materials. Other evergreen plant materials having the same growth characteristics as the aforementioned may be substituted, subject to approval by the city prior to installation.
- (e) Invasive species are prohibited. Bamboo, Eleagnus, Privet, Kudzu, English Ivy, Japanese Honey Suckle and Wisteria shall be prohibited from being planted.
- (f) Detention ponds. In addition to the screening requirements regulated by this article, the following additional regulations shall apply:

- (1) The bottom and sides of detention ponds shall be planted with fast-germinating erosion-controlling vegetation, continuous over the entire surface of disturbed soils both inside and outside of the pond.
- (2) Larger-growing species of perennial plants shall be interplanted in the wet areas of the pond (up to the 25-year storm inundation line) on minimum ten (10) foot centers, that are capable of thriving in intermittently wet and dry soils and will provide food and habitat for birds and other wildlife.
- (3) Trees are prohibited within or on the outer slopes of detention ponds in order to prevent damage to the pond structure.

Sec. 1206. - Fences in buffers.

Fences within required buffer strips shall meet the following requirements:

- (1) Fences shall be constructed of solid materials. Use of cyclone fencing which utilizes inserts as screening shall be prohibited.
- (2) Painted or stained wood shall be maintained.
- (3) Metal fencing shall be painted or vinyl coated.
- (4) Fence supports shall face inwards.
- (5) Posts shall be anchored in concrete.
- (6) A minimum of four (4) inches shall be clear underwood.
- (7) Fences may step down a slope, however supports shall be vertical and plumb.

Sec. 1207. - Walls and fences.

The setback requirements of this zoning ordinance shall not prohibit any necessary retaining wall or fence except those which cause a public or safety hazard. Additionally, retaining walls and fences in a residential zoning district shall adhere to the following requirements:

- (a) Front yard fences and walls shall not exceed forty-two (42) inches in height and shall not extend into the public right-of-way.
- (b) Front yard fences shall be within six (6) inches of the property line and shall not be made of wire, woven metal, or chain link unless located on property of an agricultural or undeveloped use or of a lot size larger than three (3) acres.

- (c) Ornamental or decorative fences constructed of brick, stone, stucco, split rail, wood or wrought iron and not constructed of exposed block, tires, junk or other discarded material shall be permitted within the front yard setback.
- (d) Fence foundations and frames shall be on the interior facing of the fence only.
- (e) No fence or wall shall exceed eight (8) feet in height within a rear or side yard.
- (f) Retaining walls located adjacent to a sidewalk along a public street shall not exceed a height of two (2) feet and the combined height of a fence where otherwise authorized and retaining wall shall not exceed a height of five (5) feet, unless existing topography prohibits retaining walls of a lesser height. Retaining walls shall be from finished poured concrete or shall be faced with stone, brick or smooth stucco.
- (g) No "barbed wire" fences shall be erected or maintained in any residential district within in the city. "Barbed wire" fence shall include any wire fence which is outfitted with, or designed to incorporate wire barbs, prongs, or other sharp projections along the wire portion of the fence.

Sec. 1208. - Fences and hedges, corner visibility.

On corner lots within all zoning districts, no fence, shrubbery, or other obstruction to traffic line of sight vision shall exceed a height of two and one-half (2½) feet within the triangular area formed by the intersection of right-of-way lines at two (2) points measured twenty (20) feet along the property line from the intersection. Within said triangle there shall be no sight obscuring wall, fence or foliage higher than thirty (30) inches above grade or in the case of trees, foliage lower than eight (8) feet. Vertical measurement shall be made at the top of the curb on the street or alley adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest traveled way.

Sec. 1209. - Fences and hedges, measurement rule.

Heights of fences, hedges, and other continuous foliage shall be measured from the adjacent top of the street curb, surface of an alley, or the official established grade thereof, whichever is higher. Along interior lot lines, the measurement shall be from the average grade of the lot line of the parcel on which the fence is located.

Sec. 1210. - Fences and hedges, exceptions.

The mayor and city council may approve, or may direct as a condition for granting approval, that fences or plantings of a height in excess of these regulations be placed as shielding between different uses, or between like uses upon agreement between the parties affected thereby, provided that no such approval shall have the effect of reducing corner visibility as provided for herein.

Sec. 1211. - Tree requirements.

- (a) Existing tree cover and natural vegetation shall be preserved and/or replaced with suitable vegetation. All existing, healthy hardwood or softwood trees with a caliper of two (2) or more inches at a point three (3) feet above the ground shall be retained whenever feasible; if not feasible, the tree shall be replaced.
- (b) A minimum of one (1) overstory tree and one (1) understory tree shall be required for each five hundred (500) square feet of the total minimum required open space outside the parking areas. All other existing trees of at least twenty (20) feet in canopy diameter and height shall be counted. Trees required for screening purposes shall not be included in the aforementioned calculation.
- (c) Except as required by this section and to meet specific community design policies established for various areas of Clarkston, trees shall be planted and/or retained in areas of the site to enhance the overall project design and provide such amenities as visual attractiveness, natural resources preservation, energy conservation, etc.
- (d) All retained or planted trees shall be protected or situated as to prevent damage from environmental changes, particularly grading and other contractor operations, resulting from any building or other improvements as stipulated in the Clarkston Tree Protection Plan.
- (e) Tree replacement and all tree plantings shall be submitted and approved coincident with the landscaping plan for the site.
- (f) The following trees shall be permitted:

Canopy (Overstory) Trees	
Common Name	Scientific Name
Green Ash (seedless)	Fraxinus pennsylvanica
White Ash	Fraxinus americana
American Beech	Fagus grandifolia



River Birch	<i>Betula nigra</i>
Bald Cypress	<i>Taxodium distichum</i>
Chinese Elm	<i>Ulmus parvifolia</i>
Ginkgo (male only)	<i>Ginkgo biloba</i>
Thornless Honeylocust	<i>Gleditsia triacanthos "inermis"</i>
European Hornbeam	<i>Carpinus betulus</i>
Katsura Tree	<i>Cercidiphyllum japonicum</i>
Florida or Southern Sugar Maple	<i>Acer barbatum</i>
Red Maple and varieties	<i>Acer rubrum</i>
Sugar Maple (heat-adapted varieties)	<i>Acer saccharum</i>
Southern Magnolia	<i>Magnolia grandiflora</i>
Chestnut Oak	<i>Quercus prinus</i>
Laurel Oak	<i>Quercus laurifolia</i>
Overcup Oak	<i>Quercus lyrata</i>
Pin Oak	<i>Quercus palustris</i>
Red Oak	<i>Quercus rubra</i>
Sawtooth Oak	<i>Quercus acutissima</i>
Scarlet Oak	<i>Quercus coccinea</i>
Southern Red Oak	<i>Quercus falcate</i>
Willow Oak	<i>Quercus phellos</i>
Japanese Pagodatree	<i>Sophora japonica</i>
Loblolly Pine	<i>Pinus taeda</i>
Dawn Redwood	<i>Metasequoia glyptostroboides</i>
Japanese Zelkova	<i>Zelkova serrata</i>

Understory Trees	
Common Name	Scientific Name
Kwanzan Cherry	<i>Prunus cerasifera</i>
Yoshino Cherry	<i>Prunus x yedoensis</i>
Crabapple (disease resistant varieties)	<i>Malus</i> spp.
Flowering Dogwood	<i>Cornus florida</i>
Kousa Dogwood	<i>Cornus kousa</i>
'Brown Turkey' Fig	<i>Ficus carica</i>
Lilac Chaste Tree	<i>Vitex agnus-castus</i>
Little Gem Magnolia	<i>Magnolia grandiflora</i> 'Little Gem'
Saucer Magnolia	<i>Magnolia soulangeana</i>
Star Magnolia	<i>Magnolia stellata</i>
Japanese Maple	<i>Acer palmatum</i>
Paperbark Maple	<i>Acer griseum</i>
Trident Maple	<i>Acer buergeranum</i>
Crepe Myrtle (disease resistant)	<i>Lagerstroemia indica</i>
Hybrid Crepe Myrtles (disease resistant)	<i>Lagerstroemia faureii</i>
Wax Myrtle	<i>Myrica cerifera</i>
Redbud	<i>Cercis Canadensis</i>
Sassafrass Tree	<i>Sassafrass albidum</i>
Carolina Silverbell	<i>Halesia caroliniana</i>
American or European Smoke Tree	<i>Cottinus obovatus</i> or <i>coggygria</i>
Sourwood	<i>Oxydendron arborum</i>

Other trees may be approved on a case by case basis. The general criteria for overstory replacement trees are large growing (forty (40) feet tall or greater), and ecologically compatible with the site. The general criteria for understory replacement trees are medium growing (ten (10) to thirty-five (35)

in height), and ecologically compatible with the site. All planting and replanting plans are subject to the city tree consultant's approval.

Sec. 1212. - Landscape strips.

- (a) Minimum landscape strip dimensions for front yards and street side corner yards along the street frontage for each lot in any zoning district shall be ten (10) linear feet.
- (b) Permanent structures shall be prohibited within landscape strips (such as buildings, parking spaces, dumpsters, drainage structures and detention facilities). Exceptions include driveways, sidewalks foot paths, necessary retaining walls, signs, and the deposition of storm water runoff or drainage swales through landscape strips perpendicular to the strip.
- (c) Signs within landscape strips may only be located in areas of turf or ground cover and must not conflict with the growth potential of trees and shrubs.
- (d) Design standards: All required landscape strips must be designed with at least sixty (60) percent coverage in trees and shrubs, and no more than forty (40) percent coverage in grass and ground cover. Landscape strip coverage will be calculated as follows:
  - (1) Calculate the total spatial area of the landscape strip.
  - (2) Count the number of trees within the landscape strip and multiply by fifty (50) square feet for trees less than six (6) inch caliper and one hundred and fifty (150) square feet for trees greater than six-inch caliper. (This will allow some credit for the spatial coverage of the tree canopy).
  - (3) Measure the spatial coverage of the proposed shrub beds and add to the tree coverage.
    - a. Twelve (12) square feet for each five-gallon shrub;
    - b. Nine (9) square feet for each three-gallon shrub;
    - c. Six (6) square feet for each two-gallon shrub or ground cover; or
    - d. Three (3) square feet for each one-gallon shrub or ground cover.
    - e. This total area shall be greater than or equal to sixty (60) percent of the total area of the strip.
  - (4) The required overstory trees within the front landscaping areas shall be a minimum of three-inch caliper or twelve (12) feet to fourteen (14) feet tall at the time of planting.

- (5) The required understory trees within the front landscaping areas shall be a minimum of two-inch caliper or eight (8) feet to ten (10) feet tall at the time of planting.
- (6) Any exposed ground shall be planted with a living ground cover or lawn, with an appropriate mulching material.
- (7) All trees and landscape materials should be planted at the proper planting times, preferably in the fall, winter or spring and maintained in perpetuity. The city may require performance bonds be posted if planting is delayed due to seasonality.
- (8) Trees within required landscape strips shall be provided as follows:
  - a. Landscape strips shall have a minimum of one (1) tree for every thirty (30) linear feet of a landscape strip to the nearest whole number.
  - b. Clumping is permitted provided that adequate spacing is allowed for future growth.
- (9) Landscape strips shall be shown on the landscape plan for review and approval as part of the building permit process.

Sec. 1213. - Parking areas.

Parking lots designed with fifteen (15) or more parking spaces shall be designed as follows:

- (a) Where parking bays exceed fifteen (15) continuous spaces, a planter island meeting the following criteria is required. The planting islands shall be located no farther apart than every ten (10) parking spaces and at the terminus of all rows of parking.
  - (1) Each separated planter island shall contain a minimum of two hundred (200) square feet.
  - (2) Each planter island area shall include at least one (1) shade tree. The remaining area may be planted with shrubs, lawn or living ground cover not to exceed three (3) feet in height with mulch of pine straw, bark, wood chips, turf grass, rocks and the like.
  - (3) All planter islands must be curbed to prevent vehicular encroachment.
- (b) To promote better growth of trees and shrubs and to encourage flexibility in parking design, the area of not more than four (4) planter islands may be combined into one (1) large island, provided that the

large island include one (1) shade tree per two hundred (200) square feet, with a minimum distance of thirty (30) feet exists between shade trees.

Sec. 1214. - Installation and maintenance.

- (a) *Installation.* All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures. The city tree consultant shall inspect all landscaping and no certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements provided in this zoning ordinance.
- (b) *Agreement and bonding.* 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 city tree consultant. The bond will be in the amount of one hundred (100) percent of the estimated cost of replacing all of the landscaping required by these specifications. At the end of two (2) years, the building inspector shall make an inspection and notify the owner or developer and the bond company of any corrections to be made.
- (c) *Maintenance.* The owner, occupant, tenant and respective agent of each, if any, shall be jointly and severally responsible for the maintenance and protection of all required landscaping in perpetuity, in accordance with the following standards:
  - (1) Keep landscaping reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to exist in a healthy growing condition;
  - (2) Mow or trim landscaping in a manner and at a frequency appropriate to the use made of the material and species on the site so as not to detract from the appearance of the general area. Growth of plant material at maturity shall be considered where future conflicts such as view, signage, street lighting, utilities and circulation might arise;
  - (3) Maintain all landscaping to minimize property damage and public safety hazards, including removal of dead or decaying plant material, and removal of low hanging branches next to sidewalks and walkways obstructing street lighting;
  - (4) Plantings in the buffer area shall be replaced unless the city tree consultant deems such replacement unnecessary;

- (5) Pruning, trimming, and maintenance shall be performed to maintaining healthy plant matter in accordance with the specifications set forth by the American Forestry Association, the National Arborist Association, or other professional arboricultural organizations; and
- (6) See Article VI, District Regulations for additional maintenance requirements.

ARTICLE XIII. - NON-COMMERCIAL POULTRY

Sec. 1301. - Purpose and intent.

The purpose of this chapter is to authorize and provide standards for keeping of poultry in the side or rear yard of residential properties. The intent is to enable residents to keep poultry for non-commercial purposes, while limiting the potentially adverse impacts of such on surrounding neighbors.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1302. - Single-family residential districts only.

The keeping of non-commercial poultry pursuant to this article is limited to the following zoning districts: NR-1, NR-2, and NR-3.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1303. - Number of poultry allowed.

The maximum number of poultry allowed per lot shall be determined by the total area of the lot whereupon the poultry are kept, in accordance with the following:

- (a) Less than 0.5 acres: a maximum of three (3) poultry are allowed.
- (b) 0.5 acres to 1.0 acre: a maximum of five (5) poultry are allowed.
- (c) 1.1 acres to 2.0 acres: a maximum of eight (8) poultry are allowed.
- (d) 2.1 acres to 3.0 acres: a maximum of ten (10) poultry are allowed.
- (e) 3.1 acres or greater: a maximum of twelve (12) poultry are allowed.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1304. - Roosters prohibited.

It shall be a violation of this article for any person to keep a rooster within the city.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1305. - Commercial poultry prohibited.

The keeping of poultry pursuant to this article is permitted for non-commercial, personal use only. The sale within the city of any poultry, eggs, meat or other poultry-related products derived from the keeping of poultry pursuant to this article shall be a violation of this article.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1306. - Enclosure of poultry required; location of poultry.

- (a) Any individual owning or keeping poultry in the city shall keep said poultry under fence and not allow such poultry to leave the lot upon which they are kept.
- (b) Poultry shall be kept only in the rear or side yard of the lot.
- (c) Every coop, pen or other building appurtenant to the keeping of poultry must be located a distance of at least seventy-five (75) feet from the nearest residence. On lots of greater than seventy-five (75) feet of width, such coop, pen or other building appurtenant to the keeping of poultry must be located a distance at least equal to the width of the lot upon which the poultry are kept from the nearest residence.
- (d) Every coop, pen or other building appurtenant to the keeping of poultry must be located at least five (5) feet from the residential structure on the lot where poultry are kept.
- (e) Every coop, pen or other building appurtenant to the keeping of poultry must have a minimum floor area of four square feet per poultry kept in such structure. Poultry of less than one month of age shall not be counted for purposes of this subsection,
- (f) Every coop, pen or other building appurtenant to the keeping of poultry that is permanently affixed to the ground shall meet all requirements for accessory structures set out in Zoning Ordinance section 603, except for the provisions regarding setback and location, which shall be controlled by this section.

(Ord. No. 367, § 3, 8-9-12)

Sec. 1307. - Nuisance prohibited.

The keeping of poultry shall be conducted in such a manner so as not to unreasonably disturb the use or enjoyment of adjacent properties. Odor generated by poultry shall not be perceptible on adjacent lots. Noise

generated by poultry shall not disturb a person of common and reasonable sensitivity to sound at the boundary lines of the lot upon which said poultry are kept.

(Ord. No. 367, § 3, 8-9-12)

#### ARTICLE XIV. - LEGAL STATUS PROVISIONS

##### Sec. 1401. - Conflict with other laws.

Whenever the regulations of this ordinance require a greater lot width or depth or size or yard or impose other more restrictive standards than are required in or under any other ordinance, statute or covenants, the requirements of this ordinance shall govern. Whenever the provisions of any other ordinance, statute, or covenants require more restrictive standards than those of this ordinance, the provisions of such other ordinance, statutes or covenants shall govern.

##### Sec. 1402. - Severability clause.

Should any section or provision of this zoning ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the zoning ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. The mayor and city council hereby declares that it would have adopted the remaining parts of the zoning ordinance if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

##### Sec. 1403. - Repeal of conflicting ordinances.

All resolutions and ordinances and parts of resolutions and ordinances in conflict with this ordinance are hereby repealed; provided however, that nothing herein shall be construed as repealing or modifying the conditions of operation or conditions of sight development accompanying those zoning approvals or use permits issued under previous zoning ordinances or resolutions, provided however, modification or repeal of such past conditions of approval may be accomplished as provided by this ordinance.

All variances and exceptions heretofore granted by the mayor and city council shall remain in full force and effect and all terms, conditions, and obligations imposed by the mayor and city council with respect thereto shall remain in effect and be binding. Prior ordinances shall remain in effect insofar as required for the initiation of any proceedings against such violations and for the prosecution of any violations and for the prosecution of any violations heretofore commended.



Sec. 1404. - Effective date.

This ordinance shall take effect and shall be in force from and after the date of its adoption [April 23, 2007], the public welfare demanding it.